



## Supreme Court of Georgia

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## SUMMARIES OF OPINIONS

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### **GEORGIA CARRY.ORG., INC. ET AL. V. ATLANTA BOTANICAL GARDEN, INC. (S18G1149)**

The Supreme Court of Georgia is sending a case back to the Georgia Court of Appeals and from there back to the **Fulton County** Superior Court to determine whether under the terms of a 50-year lease with the City of Atlanta, the **Atlanta Botanical Garden, Inc.** has the right to ban people from carrying firearms while on the premises.

With today's opinion, written by **Justice Charles J. Bethel**, the high court has reversed a Court of Appeals decision in the case, which upheld a Fulton County court ruling that the Atlanta Botanical Garden has the right to prohibit visitors on the property from carrying guns because the Garden is a private entity.

“However, because the lease between the Garden and the City is not in the record and because this question turns on its interpretation, summary judgment in favor of the Garden should not have been granted because the Garden is not entitled to judgment as a matter of law at this point in the proceedings,” today's opinion says. This is the second time this case has been before the state's highest court.

Atlanta Botanical Garden, Inc. is a private, non-profit corporation that operates a botanical garden complex on property it secured through a 50-year lease from the City of Atlanta. Phillip Evans is a member of the Garden who lives in Gwinnett County. He also is a member of **GeorgiaCarry.Org**, a gun-rights organization, and he holds a valid Georgia weapons carry license. In October 2014, Evans twice visited the Garden with his wife and children, openly carrying a handgun in a holster on his waistband. No Garden employee objected to him doing so on his first visit to the Garden, but during his second visit, a Garden employee stopped him and

informed him that weapons were prohibited on the Garden premises for everyone other than law enforcement officers. A Garden security officer eventually detained Evans, and he was escorted from the Garden by an officer from the Atlanta Police Department.

In November 2014, Evans and GeorgiaCarry.Org sued Atlanta Botanical Garden, Inc. in Fulton County Superior Court, seeking a declaration from the court that the Garden could not prohibit people from carrying guns on the property and an injunction to stop the weapons ban. They argued that Georgia Code § 16-11-127 (c) authorized individuals to carry a weapon in the Garden. The statute, as amended by the Georgia legislature in 2014, states that license holders “shall be authorized to carry a weapon...in every location in this state not [excluded by] this code section.” The Garden countered that there is an exception to the general rule in the same statute that says, “private property owners or persons in legal control of private property through a lease...shall have the right to exclude or eject a person who is in possession of a weapon...” The trial court dismissed the case after concluding that the issues presented in the lawsuit were not appropriate for the relief sought.

Evans and GeorgiaCarry.Org appealed, and in 2016, this Court reversed the trial court ruling in part and sent it back to Fulton County Superior Court. On remand, the trial court again ruled in favor of the Garden, granting it “summary judgment” after finding that the Garden’s property was considered private under Georgia Code § 16-11-127 (c) and that the Garden could therefore exclude weapons from its premises. (A court grants summary judgment when it determines there is no need for a jury trial because the facts are undisputed and the law falls squarely on the side of one of the parties.) Evans and GeorgiaCarry.Org appealed that ruling to the Court of Appeals, arguing that the trial court erred in its determination that the property the Garden leases from the City of Atlanta is private property. But the Court of Appeals upheld the trial court’s ruling. Evans and GeorgiaCarry.Org again appealed to the state Supreme Court, which agreed to review the case to determine whether Georgia Code § 16-11-127 (c) permits a private organization that leases property owned by a municipality to prohibit the carrying of firearms on the leased premises.

“As a preliminary matter, it is worth noting that the resolution of this appeal does not turn on an interpretation or understanding of the Second Amendment to the Constitution of the United States or of Article 1, Section 1, Paragraph VIII of the Georgia Constitution,” today’s opinion says. “Nor does this appeal require us to determine whether the statute runs afoul of other provisions of the United States Constitution or the Georgia Constitution regarding property rights. Rather than requiring an analysis of these constitutional issues, this appeal turns only on the proper interpretation of the above-referenced statute.”

The Garden has argued throughout this case that because it is a private entity, its lease with the City makes the premises “private property” under § 16-11-127 (c) for the duration of the lease. The two lower courts agreed and determined that the Garden had the right to prohibit Evans from carrying a firearm on the property.

In today’s 41-page opinion, however, “we reject this interpretation of the statute.”

Contrary to the rulings by both the Court of Appeals and the Fulton County Superior Court, “we determine that for purposes of § 16-11-127 (c), property may only be considered ‘private’ if the holder of the present estate in the property is a private person or entity,” the opinion says. “In this case, because the City is a public entity, if it is the holder of the present estate, the leased premises is not private property within the meaning of the statute because

property owned by a municipality is not ‘private property.’ If the City thus owns the property, the Garden has no right to exclude the carrying of firearms on the leased premises because it is not ‘in legal control of private property through a lease.’ If, on the other hand, by the terms of the 50-year lease with the City, the Garden holds the present estate in the property, the property is ‘private property,’ the Garden is a ‘private property owner,’ and it had the right to exclude Evans from carrying a firearm on the premises.”

The opinion explains that when a landlord and tenant enter into a lease, “as the Garden and the City did here, that lease may create one of two types of rights in the property in favor of the tenant. If the lease grants to the tenant ‘the right simply to possess and enjoy the use of’ the property, ‘no estate passes out of the landlord and the tenant has only a usufruct.’” (“Usufruct” is a legal term that means the right to use property that is owned by another.)

A lease for a fixed period of time may also create a second type of right, called an “estate for years,” and “it is the policy of the law to treat the tenant of any estate for years as the owner, during the life of such estate,” the opinion says. “If the lease creates an estate for years, the present estate in the property passes from the landlord/grantor to the tenant/grantee for the duration of the lease, and the tenant/grantee is treated by our law as the owner of the property for that period of time.”

Although the Garden has argued that its status as a private entity and its lease with the City make the property “private property” under Georgia Code § 16-11-127 (c), a lease that is held by a private entity “does not summarily answer the question of whether the property governed by the lease is ‘private property,’” the opinion says. “Rather an examination of the terms of the lease is required in order to determine whether the lease created an estate in the private lessee such that the property has become private property for the term of the lease.”

“If the lease does not grant an estate to the Garden, the Garden merely has a usufruct. If that is the case, throughout the term of the Garden’s lease with the City, the leased premises has never been anything other than public property because the present estate in the property has always been held by the City of Atlanta, a public entity.”

“However, it is quite possible that the 50-year lease between the City and the Garden created an estate for years that is presently held by the Garden.” And, where the term of a lease is for a period greater than five years, “a rebuttable presumption arises that the parties intended to create an estate for years rather than a usufruct.”

In today’s opinion, the Court states that, “because the lease is not in the record and because this determination requires an examination of its provisions to determine whether it granted an estate to the Garden, summary judgment should not have been granted in favor of the Garden under the theory it asserted in its motion for summary judgment. We therefore reverse the judgment of the Court of Appeals and remand the case for further proceedings.”

The Court received from outside parties a number of amicus briefs in support of the Garden that expressed concerns about possible negative consequences if the case is ultimately decided in favor of GeorgiaCarry.Org. The Court notes, however, that their arguments are policy arguments, not legal ones. “As members of this State’s judicial branch, it is our duty to interpret the laws as they are written,” the Court states in the footnote. “We leave political questions to the political branches, and the policy arguments in this case are properly directed to the General Assembly.”

In a concurrence, **Justice Nels S.D. Peterson** writes that while he agrees with today's judgment, the 2014 amendment *retroactively* destroyed the property right certain lessees had under the old law to exclude people carrying firearms. "Our Constitution forbids statutes that apply retroactively so as to injuriously affect the vested rights of citizens," the concurrence says, quoting the high court's 2013 decision in *Deal v. Coleman*. "Before the amendment, Georgia law respected that right to exclude by providing that 'private property owners or persons in legal control of property through a lease...or any other agreement to control access to such property' had the right to 'forbid possession of a weapon or long gun on their property.' The amendment constricted that right to exclude in a significant way." "Our constitutional system of limited government and individual rights depends upon the consistent government protection of private property," the concurrence says. "As the high court of one of our sister states recently observed, 'a government's failure to protect private property rights puts every other civil right in doubt.' We made a similar point over a half-century ago: 'Private property is the antithesis of Socialism or Communism.'" "It should not go without noting that the consequence of our decision today is that the amendment likely was unconstitutional in almost all of its applications when it first became effective, and probably in some that still remain," the concurrence says.

**Attorney for Appellants (GeorgiaCarry.Org):** John Monroe

**Attorneys for Appellee (Garden):** James Grant

**ROCKDALE HOSPITAL, LLC V. EVANS ET AL. (S18G1189)**

**EVANS ET AL. V. ROCKDALE HOSPITAL, LLC (S18G1190)**

The Supreme Court of Georgia has vacated a Georgia Court of Appeals ruling that ordered a new trial in a medical malpractice lawsuit brought by a man whose wife suffered catastrophic injuries resulting from an undiagnosed ruptured brain aneurysm.

In today's unanimous opinion, the high court is sending the case back to the intermediate appellate court with instructions that it apply the correct legal standard in reviewing a **DeKalb County** court decision.

"We conclude that the Court of Appeals applied the wrong standard in reviewing the trial court's decision, and so we vacate the judgment and remand the case with direction to apply the standard set for in this opinion," **Justice Charles J. Bethel** writes for the Court.

The facts of the case as presented by the Court of Appeals are as follows. In January 2012, 60-year-old Janice K. Evans woke up one night with what she described as the worst headache she had ever experienced, along with vomiting. She believed it was food poisoning, although a severe "thunderclap" headache such as what she described, followed by nausea and vomiting, are common symptoms of bleeding in the brain. When the symptoms did not subside, two days later her husband, **Shawn G. Evans**, took her to the **Rockdale Hospital** emergency room where she complained of headache and nausea and told the nursing staff she might have gotten food poisoning from a local restaurant. The triage nurse failed to document Evans's initial complaint of headache. The nurse did document her extremely high blood pressure, which can also signify bleeding on the brain, but nursing staff did not ask specific questions about her headache for which she requested medication. Evans was diagnosed with high blood pressure, nausea and vomiting with no specific cause identified. She was discharged from the hospital with instructions to follow up with her primary care physician, especially about her high blood pressure. Her husband made the first available appointment with a primary care physician but it

was not until six days later. Throughout the week, her headache and vomiting continued. The day before her doctor's appointment, her husband called 911 after she began moving her mouth unnaturally and was unable to get up from the couch. An ambulance transported her back to the Rockdale emergency room where a CT scan showed a blood clot in her brain. She was transferred to Emory Hospital in Atlanta where further testing revealed she had suffered several strokes as a result of a ruptured brain aneurysm. Subsequently, Evans underwent multiple surgeries and spent months in the hospital and at a rehabilitation facility. Today she is permanently disabled, is incontinent, requires a feeding tube, cannot speak, has severe cognitive and other impairments, has a seizure disorder, and requires 24-hour care.

In August 2013, Evans's husband sued Rockdale Hospital for medical malpractice and loss of consortium. During the trial, the parties disputed whether Evans suffered from a ruptured aneurysm when she presented at the emergency room in January 2012, whether a diagnosis of a ruptured brain aneurysm on that date would have led to a better outcome, and whether the Rockdale emergency room nurses violated the standard of care. The hospital also argued that Evans's fault exceeded that of the hospital's because she had failed to obtain treatment for her longstanding, uncontrolled hypertension despite being aware of that condition.

Following trial, the jury awarded the Evanses the amount they had requested in damages to cover her medical expenses to date, which had come to nearly \$1.2 million. But it awarded her zero damages for future medical expenses, past and future lost wages, and past and future pain and suffering. The jury awarded her husband \$67,555 for loss of consortium. On the verdict form, the jury also apportioned fault among the parties, finding that Rockdale was 51 percent at fault and that Evans was 49 percent at fault. The trial judge then reduced the amount of damages awarded by the jury in proportion to the percentage of fault and entered judgment in favor of Evans in the amount of \$586,191.60 for past medical expenses and \$33,101.95 for loss of consortium.

The plaintiffs (i.e. the Evanses) filed a motion for "additur" (i.e. an increase in damages ordered by the trial judge) or a new trial on the ground that the jury's award of damages against the hospital was so clearly inadequate as to be inconsistent with the preponderance of the evidence. The plaintiffs contended that any new trial ordered by the trial court should be limited to the issue of damages. Rockdale Hospital opposed the motion, arguing that the jury's damages award should not be disturbed and that any retrial could not be limited to the issue of damages because the case involved "comparative negligence." (Comparative negligence is the legal principle involved when a plaintiff's own negligence proportionally reduces the damages she can recover.) Following a hearing, the trial court denied the plaintiffs' motion, and the Evanses appealed to the Court of Appeals.

The Court of Appeals reversed the trial court's ruling and ordered a retrial of the entire case, covering both liability and damages. It concluded that the award of zero damages for Evans's past pain and suffering "rendered the award of damages so clearly inadequate under a preponderance of the evidence as to shock the conscience and necessitate a new trial" under Georgia Code § 51-12-12 (b). "However, because this case involves issues of comparative negligence, the retrial on remand cannot be limited to the issue of damages and instead must encompass all issues," the appellate court ruled. Rockdale Hospital appealed the first part of the ruling to the Georgia Supreme Court, while the Evanses appealed the second part of the ruling.

“Turning to the first question on certiorari, Rockdale argues that the Court of Appeals erroneously applied a ‘preponderance of the evidence’ standard in reviewing the damages award,” the opinion says. “We agree.”

Georgia Code § 51-12-12 “pertains only to the discretion of the trial court,” the opinion explains. “Under this framework, the trial court is authorized to review an award and to determine whether the damages awarded were within the range authorized by a preponderance of the evidence.” Appellate review, however, “is confined to the question of whether the trial court abused its discretion in deciding the motion for new trial on this ground.” A trial court abuses its discretion “when the exercise of discretion was infected by a significant legal error or a clear error as to a material factual finding.” Additionally, “a verdict that is so excessive or inadequate as to be irrational and thus the apparent result of jury bias, prejudice, or corruption has long been considered subject to appellate correction.”

“It was therefore error for the Court of Appeals to conclude in this case that the zero damages award for past pain and suffering was ‘clearly inadequate under a preponderance of the evidence,’” the opinion says. “The Court of Appeals could not substitute its judgment for that of the trial court on the fact-based question of whether the damages awarded were within the range authorized by a preponderance of the evidence; the Court of Appeals instead should have limited its review to whether the trial court, who saw the witnesses and heard the testimony, abused its discretion in denying the motion for a new trial.”

In view of this, “the parties’ contentions regarding the propriety of remanding the case for a retrial on both liability and damages, or on damages alone, are premature,” the opinion concludes. “Judgment vacated and case remanded with direction.”

**Attorneys for Rockdale Hospital:** Daniel Huff, R. Page Powell, Jr., Sharonda Barnes

**Attorneys for Evanses:** Leighton Moore, Lawrence Schlachter, Lloyd Bell, James Wilson, Jr.

### **MCCLURE V. THE STATE (S18G1599)**

The Georgia Supreme Court has ruled that a defendant who requested that jurors be instructed on the “affirmative defense” of self-defense before they began deliberating may have been entitled to that instruction, even though he did not admit the alleged behavior that would have made his actions a crime.

With today’s opinion, written by **Justice John J. Ellington**, the high court has voided a Georgia Court of Appeals decision and sent the case back to the intermediate appellate court “for consideration of whether the trial court erred in failing to give the requested instructions regarding the affirmative defenses of justification, that is, whether the theory of the instructions was supported by at least slight evidence, and, if so, whether any such instructional error was harmful.”

An affirmative defense, the opinion explains, “is one in which the defendant argues that even if the allegations of the indictment or accusation are true, there are circumstances that support a determination that he cannot or should not be held criminally liable. In raising an affirmative defense, the defendant asks the finder of fact to find him not guilty of the offense charged regardless of whether he committed the underlying act. Circumstances that can support a determination that the defendant cannot or should not be held criminally liable include, but are not limited to, those that justify or excuse the prohibited act alleged.”

The facts of the case, as presented in the Court of Appeals decision, are as follows. Following a jury trial, **Carlos Richard McClure** was found guilty in **Spalding County** of two counts of aggravated assault and two counts of reckless conduct. The State's evidence showed that on the night of April 2, 2015, the two victims, a man and a woman, drove to McClure's residence to pick up a friend. When they arrived, their friend was arguing with McClure outside, and when she got into the car, she was upset. The female victim saw McClure disappear and then come back carrying something. It was dark outside, but the female victim told the male victim that she thought McClure was carrying a long gun similar to something used for hunting. The victims later said that when McClure pointed the gun at them, they immediately drove away and called 911. They met a corporal with the Griffin police department at a nearby food store who later went to McClure's residence to talk with him. McClure told the officer that he did not point a gun at anyone. He showed the officer a gun that looked like a small caliber rifle but that was actually a BB gun. At trial, McClure testified that during the incident, he had grabbed the BB gun to use as a club because the woman who was being picked up had threatened to have the male victim "get [McClure]." However, McClure denied ever pointing the gun, maintaining that he had the gun over his shoulder throughout the entire incident.

Following his convictions, McClure appealed to the Court of Appeals. Among other things, McClure contended that the trial court erred by failing to instruct the jury on the affirmative defense of "justification in defense of self" and "justification in defense of habitation" – or one's home. The Court of Appeals reasoned that these defenses "require a defendant to admit all of the elements of the crime except intent." "Thus, to assert a defense of justification, like self-defense, a defendant must admit the act, or he is not entitled to a charge on that defense," the Court of Appeals ruled. "McClure did not admit to aiming the BB rifle at the victims, an element of aggravated assault as charged. Therefore, the trial court did not err in refusing to give a charge on the affirmative defense of justification," the Court of Appeals ruled. McClure then appealed to the state Supreme Court, which agreed to review the case to answer two questions: What if anything must a criminal defendant admit in order to raise an affirmative defense? Must the defendant make any such admissions for all purposes or only for more limited purposes?

In today's opinion, the Supreme Court answers both questions: "A criminal defendant is not required to 'admit' anything, in the sense of acknowledging that any particular facts are true, in order to raise an affirmative defense," the opinion says. "To the extent a defendant in raising an affirmative defense accepts for the sake of argument that he committed the act alleged in a charge, the defendant may do so only for the limited purpose of raising the affirmative defense at issue."

Georgia courts have defined an "affirmative defense" as a defense "that *admits the doing of the act charged*, but seeks to justify, excuse, or mitigate it." This definition has been approved in multiple opinions of the state's two appellate courts: the Supreme Court and the Court of Appeals. But as the dissent in the Court of Appeals decision in *McClure* wrote, defining an affirmative defense as a defense that "admits" the doing of the act charged does not explain whether the "admission" necessary to an affirmative defense is a legal admission that is binding upon the defendant or merely a non-binding assumption of facts for the sake of argument.

"Criminal defendants, like other litigants, are entitled to pursue alternative theories, even when those theories are inconsistent," today's opinion says. As the dissent noted in the Court of

Appeals *McClure* decision, “requiring a defendant to admit the crime for all purposes in order to raise an affirmative defense and secure a jury instruction ‘creates practical quandaries for defendants who, like McClure, have both a viable claim that he committed no crime and a viable claim that, if the jury believes him to have committed a crime, the act was justifiable or subject to another affirmative defense.’”

A defendant is entitled to a requested jury instruction regarding an affirmative defense when at least “slight evidence” supports the theory of the charge, the opinion says. “It follows that a trial court errs in denying a defendant’s request for a jury instruction on an affirmative defense solely on the basis that the defendant did not admit for all purposes the truth of the allegations in the indictment or accusation regarding the allegedly unlawful act.” With today’s opinion, the high court has overruled a number of appellate decisions that upheld such rulings, where the affirmative defense was supported by at least slight evidence. The Court also “disapproved” statements made in numerous cases that “defendant must admit the crime before he can raise an affirmative defense.”

The Court notes that the “Suggested Pattern Jury Instruction,” which states that an affirmative defense is a defense that “admits the doing of the act charged,” “can be easily misinterpreted,” and “wording more in line with our analysis herein would be advisable.”

In McClure’s case, “the trial court’s ruling was incorrect,” the Supreme Court rules. “As long as the theory of the affirmative defense was supported by at least slight evidence, McClure was entitled to argue both that the State failed to carry its burden of proving that he assaulted the victims by pointing the gun at them, a material allegation of the indictment, and also argue in the alternative that, if the jury credited the victims’ testimony that he pointed the gun at them over his testimony that he did not do so, the evidence nevertheless showed that he was justified in that act. The Court of Appeals erred in affirming the trial court’s failure to give the requested jury instructions on justification solely on the basis that McClure did not admit pointing the BB gun at the victims.”

In a concurrence, **Presiding Justice David E. Nahmias** writes that he agrees with the Court’s opinion, which “reaffirms that the law allows a defendant to present inconsistent defenses so long as each defense is supported by at least slight evidence.” “It is important to recognize, however, that what the law *allows* may be bad *strategy* for a defendant,” the concurrence says. “Presenting inconsistent defenses to the jury, particularly when the evidentiary support for one defense is considerably weaker than for others or where a defense is contradicted by the defendant’s own account of events, risks losing credibility for *all* of the defenses.” Also, “our opinion today should not cause trial courts to worry too much if they fail to give an instruction on an alternative defense that is supported by only the slightest evidence and that is inconsistent with the defendant’s own account of the events or with the main defense theory presented at trial.”

**Attorney for Appellant (McClure):** Cara Clark

**Attorneys for Appellee (State):** Benjamin Coker, District Attorney, E. Morgan Kendrick, Asst. D.A.

## **SCOTT V. THE STATE (S19A1042)**

The Supreme Court of Georgia has unanimously upheld the convictions and life-without-parole prison sentence given to **Corduray Keith Scott** in **Richmond County** for killing his 3-month-old son, Corduray Scott, Jr.

Scott challenged the sufficiency of the evidence to support his convictions and also argued that the trial court erred in admitting statements he made to law enforcement in a second interview because, although the officer had read him his *Miranda* rights and he had waived them prior to the first interview, he was not reminded of his rights prior to the second interview.

In today's opinion, however, "We affirm Scott's convictions because the evidence was sufficient to support them and there was no *Miranda* violation," **Justice Nels S.D. Peterson** writes for the Court.

According to the evidence at trial, Corduray, Jr. was born Sept. 27, 2009 to Shakeila Jones and Scott who lived together in an apartment and also had a daughter. Early the morning of Jan. 18, 2010, Jones changed the baby's diaper and put him in a swing, where he sometimes slept. The baby seemed normal at the time. She then slept for several hours, while Scott was responsible for caring for the infant. When Jones awoke later that day, she found the baby unresponsive. His feet were shaking, his arms were stiff, and his eyelids were half-closed. After calling 911, Jones took Corduray, Jr. to the hospital, where he began having seizures and had trouble breathing. The pediatric expert who treated him had a CT scan done, which confirmed her suspicions that the baby had bleeding in his brain. He also had severe retinal hemorrhaging in his eyes, which the expert said was consistent with severe acceleration and deceleration of the infant's head. The baby quit breathing because of swelling in his brain, and he was pronounced clinically brain dead. Three days later, he was taken off life support.

The medical examiner who performed the autopsy determined that the cause of death was blunt force trauma to the head and violent shaking. The medical examiner also found older injuries, including nine rib fractures at different stages of healing that were consistent with forceful squeezing of the baby's chest; a laceration to the liver that the expert said only could be caused by a forceful blow to the abdomen; and old bleeding in the lungs that indicated instances of asphyxia. The medical examiner, pediatric expert, and another pediatrician specializing in child abuse concluded the baby's injuries were intentionally inflicted and non-accidental.

Police spoke briefly to Jones at the hospital, and later brought Jones and Scott to the police station. An investigator read Scott his *Miranda* rights (to remain silent, etc.), and he agreed to answer questions, waiving his rights. The investigator noted that Jones's behavior was odd during the interview as he smiled and laughed and displayed no emotion when told his son might be dead. Scott said his baby was injured when his swing broke and he fell from it. The investigator re-interviewed Scott the next day, reminding him of his *Miranda* rights although not going over them again in detail. The investigator later testified that Scott confirmed he understood his rights. During the second interview, which was videotaped, Scott said there were several times the baby had been injured, including once when he rolled off the bed. Scott also said he sometimes played "rough" with the infant, tossing him into the air, squeezing him, and bouncing the baby. The medical examiner who watched the videotape in which Scott demonstrated how he sometimes treated the baby concluded that the actions Scott demonstrated weren't "extensive" enough to produce the force of the baby's injuries.

Scott testified in his own defense at trial, denying he ever intentionally hurt his baby and claiming the baby's injuries resulted from his fall when the swing broke. Following the August 2012 trial, the jury found Scott guilty of felony murder and one count of cruelty to children in the second degree. He was sentenced to life without parole for the murder plus 10 years in prison for child cruelty. He then appealed to the Georgia Supreme Court.

"There is sufficient evidence to support the felony murder conviction," today's opinion says. "The jury was authorized to reject Scott's evidence and theory and resolve any conflicts in the evidence adversely to him." In addition, "There also is sufficient evidence to support the cruelty to children in the second degree conviction." As to Scott's argument that the trial court erred in admitting statements from his second interview because he was not reminded of his rights, "Scott's claim fails," the opinion says. "There is no dispute that the second interview occurred the day after and was a continuation of the first interview. The investigator testified that he reminded Scott of his *Miranda* rights prior to the second interview. Under these circumstances, the investigator was not required to repeat the *Miranda* warnings."

"Judgment affirmed. All the Justices concur."

**Attorney for Appellant (Scott):** Robert Sirianni, Jr.

**Attorneys for Appellee (State):** Kelly Weathers, Assistant District Attorney, Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Katherine Emerson, Asst. A.G.

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**IN OTHER CASES**, the Supreme Court of Georgia has upheld **murder** convictions and life prison sentences for:

* Maurice Bentley (Chatham Co.)	<b><u>BENTLEY V. THE STATE (S19A0696)</u></b>
* LaQuan Brown (Chatham Co.)	<b><u>BROWN V. THE STATE (S19A0820)</u></b>
* Cleandre A. Franklin (Fulton Co.)	<b><u>FRANKLIN V. THE STATE (S19A0533)</u></b>
* Jesus Guerrero (Toombs Co.)	<b><u>GUERRERO V. THE STATE (S19A1129)</u></b>
* Bahir Ramiz Howard (Spalding Co.)	<b><u>HOWARD V. THE STATE (S19A0785)</u></b>
* Javon Jackson (Chatham Co.)	<b>**<u>JACKSON V. THE STATE (S19A0937)</u></b>
* Rodney Smith (Chatham Co.)	<b>**<u>SMITH V. THE STATE (S19A0936)</u></b>
* James Johnson (Catoosa Co.)	<b><u>JOHNSON V. THE STATE (S19A1394)</u></b>
* Andre Silas Myrick (Fulton Co.)	<b><u>MYRICK V. THE STATE (S19A0616)</u></b>
* Leonard R. Rodrigues (Chattooga Co.)	<b><u>RODRIGUES V. THE STATE (S19A0530)</u></b>
* Urihaan Velasco (Clayton Co.)	<b><u>VELASCO V. THE STATE (S19A0590)</u></b>

\*\*Jackson and Smith were co-defendants

**IN LAWYER DISCIPLINARY MATTERS**, the Georgia Supreme Court has **disbarred** the following attorney:

\* Sherri Jefferson                      **IN THE MATTER OF: SHERRI JEFFERSON (S19Y0527)**

The Court has rejected as insufficient a petition for voluntary discipline recommending a **public reprimand** from attorney:

\* Denise F. Hemmann            **IN THE MATTER OF: DENISE F. HEMMANN (S19Y1546)**

The Court has upheld a decision by the Board to Determine Fitness of Bar Applicants which denied an application for reinstatement to the practice of law from the following attorney whom this Court disbarred in 2012:

\* Joan Palmer Davis            **IN THE MATTER OF: JOAN PALMER DAVIS (S19Z1117)**