



Supreme Court of Georgia
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SUMMARIES OF OPINIONS

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AGEE V. THE STATE (S20A0726)

A woman convicted of murdering her husband in 1992 and sentenced to life in prison, where she has been for the last five years, is entitled to a new trial under an opinion released today by the Supreme Court of Georgia.

With today's unanimous opinion, written by **Justice Keith R. Blackwell**, the high court has reversed a **Walton County** judge's denial of **Linda Agee**'s motion for a new trial. Agee argued the trial court erred by admitting as evidence hearsay statements attributed to the man with whom she was having an affair at the time of the murder.

According to the facts of the case, Agee and Randall Horace Peters were married and had twin daughters. The couple owned a business together that delivered fresh produce, requiring them to leave their home at about 2 in the morning to make deliveries. Due to their work hours, they often left their daughters at the home of his parents. The marriage was troubled, and Agee began having an affair with Jeffrey Sargent, who was also married and had four daughters. Agee's husband knew about the affair, often leading to arguments between the two. Sargent's divorce from his wife became final in the month of Peters's death.

On March 19, 1992, Agee dropped off her daughters at the home of Peters's parents at about 9:45 p.m. Not long after, however, she returned to the grandparents' house, panicked-sounding and saying that "Randy may be in trouble." Agee told them that when she had returned home, she heard her husband shout from the bathroom, "It's hot, it's hot." She said she saw a large, shadowy figure down the hallway and noticed the back door was open. Afraid, Agee said she left in her car to get help, driving to the home of Peters's parents. After hearing her story, Peters's father went to check on his son, while his wife called Agee's neighbor and asked him to check on Peters. The neighbor found Peters lying on his back in the hallway of his home with a "hole in his chest." He died from two gunshot wounds. Police found no signs of forced entry, and nothing of value was missing except for Peters's truck, which was found later that night, abandoned on the side of a road. Agee later admitted that earlier, on her way to the home of Peters's parents seeking help, she had stopped at Susan's Play World, a day care center, where she met in the parking lot with Sargent. It was not far from the Monroe Police Department. She did not say what they discussed.

In his interview with police the morning after the murder, Sargent said he had driven by Agee's and Peters's house at 10:00 p.m. the night before. He said that not long after, he had met Agee at Susan's Play World, and they discussed her wanting a divorce. When officers told him they questioned whether he was being truthful, he said that if he told them the truth, "he'd get life or the electric chair." One of Sargent's daughters later testified that he had told her if he told the truth about what had happened the night Peters died, he was "going to jail." Agee filed a claim for Peters's \$100,000 life insurance policy for which she was the sole beneficiary. She inherited the business, which she eventually shut down, some land Peters had purchased, and his tractor and truck.

The District Attorney and lead prosecutor at the time, Alan Cook, later testified that at the time of the murder, two suspects quickly emerged: Agee and Sargent. Almost a year after the crime, however, the investigation had stalled. To jump start it, Cook filed a motion asking the court to grant Sargent "use and derivative use immunity" to compel Sargent to testify against Agee without regard to his constitutional privilege against self-incrimination. Cook explained to the jury that upon granting this kind of immunity to a witness, the witness could no longer refuse to testify on 5th Amendment grounds. The day before the immunity hearing, however, Sargent and Agee got married. As a result, when Sargent was granted "use and derivative-use immunity" and Cook subpoenaed him to testify before the grand jury, his attorney filed a motion to quash the subpoena, invoking marital privilege. Following a hearing, the court ruled in Sargent's favor and quashed the grand jury subpoena, leaving the prosecution "at a dead end," Cook later testified. Over the years, cold case investigators continued to work the case but never found any suspects other than Agee and Sargent, although they suspected at least one other person was involved. In 2006, Sergeant died of natural causes – a brain aneurysm.

In April 2014, 22 years after Peters’s murder, a Walton County grand jury indicted Agee with malice murder and felony murder for the death of her husband. Prior to trial, the State sought to admit as evidence statements Sargent had made to officers and his daughter. It filed a motion arguing that Sargent’s statements were admissible under “the hearsay necessity exception and the Defendant’s waiver of confrontation by forfeiture by wrongdoing.” The State argued that Agee gave up her right to confrontation through her own wrongdoing – conspiring with Sargent to get married so he would not have to testify against her. The trial court granted the State’s motion based on “forfeiture by wrongdoing.” In June 2015, the jury found Agee guilty on both counts and she was sentenced to life in prison. She then appealed to the state Supreme Court, arguing that the trial court erred in admitting Sargent’s statements to law enforcement.

In today’s opinion, “We conclude that the evidence presented at trial, when viewed in the light most favorable to the verdict, was sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Agee was guilty of murder with malice aforethought.”

However, “the trial court erred when it ruled that Sargent’s statements to law enforcement were admissible,” the opinion says. The State failed to show one of the prerequisites to “forfeiture by wrongdoing – that Agee’s conduct actually procured Sargent’s unavailability at trial.” Sargent died of natural causes years before Agee was even indicted. “Thus, it was Sargent’s natural death, not any conduct by Agee, that caused him to be unavailable to testify at her trial,” the opinion says.

“Sargent’s statements – especially statements that he would receive life imprisonment or the death penalty if he told the truth – were highly incriminating. They were essentially an implicit admission of guilt, providing the most direct evidence that Sargent was involved in Peters’s murder. These statements also cast a large shadow of suspicion over Agee, given her close association with Sargent at the time of the killing and their eventual marriage.”

“At the same time, the other evidence against Agee was entirely circumstantial and not particularly strong. No evidence definitively identified Agee or anyone else as the shooter. While a reasonable juror might conclude that certain statements and conduct of Agee suggested that she was somehow involved in Peters’s murder, the nature and extent of her involvement are far from clear. Thus, it cannot be said beyond a reasonable doubt that the admission of Sargent’s statements did not contribute to the verdict. For the foregoing reasons, we reverse the trial court’s denial of Agee’s motion for a new trial.”

Attorneys for Appellant (Agee): Bruce Harvey, Stephen Katz

Attorneys for Appellee (State): Layla Zon, District Attorney, Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Meghan Hill, Asst. A.G.

THE STATE V. HINTON (S20A0648)

The Supreme Court of Georgia has upheld a **Fulton County** judge’s decision that when **Evontae Hinton** goes on trial for murder, the statements he made to an Atlanta detective must be suppressed because his statements were not voluntary.

In today’s unanimous opinion, written by **Justice Nels S.D. Peterson**, the high court finds that “the trial court was not required to credit the detective’s testimony, and the State did not introduce any other evidence to meet its burden of establishing the voluntariness of Hinton’s custodial statements.”

In September 2018, Hinton was indicted for malice murder, felony murder, unlawful participation in criminal street gang activity, and a number of other offenses related to the death of Kaishawn Burnstine and the aggravated assault of two others. His attorney filed a motion to suppress on the basis that Hinton's statements were not voluntary. In October 2019, the trial court granted Hinton's motion, ruling that his statements to homicide Detective Michael Young of the Atlanta Police Department must be suppressed.

According to the facts of the case, Young had gone to an Atlanta address where a narcotics warrant was being executed, hoping to find Hinton. Young was not there to execute the warrant but to speak to Hinton who he believed would be there and who was a suspect in a murder Young was investigating. Hinton was at the address, and he was arrested for illegal possession of narcotics. Young decided to transport Hinton himself to police headquarters. Hinton made the statements at issue in this case in Young's vehicle and later at police headquarters. Young audio-recorded the statements Hinton made in his vehicle and video-recorded the statements he made at headquarters.

Following the motion-to-suppress hearing, the trial court found Young's testimony "so vague regarding the conduct of the interview" that it failed to meet the State's burden of proving that after invoking his right to remain silent, Hinton had initiated further discussions with the detective and voluntarily waived his right to remain silent. The trial court therefore suppressed the statements. The State then appealed to the Georgia Supreme Court, arguing that the trial court misapplied the law and made erroneous factual and credibility determinations because the detective's testimony clearly showed Hinton had waived his *Miranda* rights and reinitiated discussions with the detective.

"As we have explained before," today's opinion states, "When the facts material to a motion to suppress are disputed, it generally is for the trial judge to resolve those disputes and determine the material facts.' A trial court's findings of fact and credibility determinations will not be disturbed unless they are clearly erroneous."

At the motion-to-suppress hearing, Young admitted that when he reviewed the audio hearing, he was unable to decipher what Hinton had said regarding whether he wanted to talk, and Young could not discern whether Hinton had asked for an attorney or wanted to stop the interview. Young also admitted that Hinton never completed a written waiver-of-rights form showing that Hinton understood his *Miranda* rights and agreed to waive them. (*Miranda* rights, named for a U.S. Supreme Court case, include the right to remain silent, the right to an attorney, and the warning that anything the defendant says can and will be used against him in court.)

The State argued that the trial court erred by concluding that Young was not specific enough regarding his reading of the *Miranda* rights to Hinton. The State also argued that the trial court misapplied the law to the facts because the *Miranda* warnings were adequate, Hinton understood them, and he voluntarily waived his right to remain silent.

"After reviewing the record and the applicable law, we conclude that none of the State's arguments have merit," today's opinion says. "The central questions in this appeal are whether Hinton asserted his right to remain silent and, if he did, whether he waived that right by initiating a conversation with Detective Young. Our review of the record reveals that it supports the trial court's conclusions on those questions, and thus we find no reversible error in the trial court's grant of the motion to suppress."

Attorneys for Appellant (State): Paul Howard, Jr., District Attorney, Lyndsey Rudder, Dep. D.A., Juliana Sleeper, Asst. D.A., Christopher Carr, Attorney General, Patricia Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G.

Attorneys for Appellee (Hinton): Deborah Young

THE STATE V. GRIER (S20A0633)

GRIER V. THE STATE (S20X0634)

Under a decision today, the Supreme Court of Georgia has agreed with a lower court that a man convicted of murder and sentenced to life in prison is entitled to a new trial.

In 2010, **Quantavious Grier** was convicted by a **Fulton County** jury of felony murder, armed robbery, aggravated assault, and weapons charges for his role in the armed robbery and shooting death of James Yarborough.

Grier filed a motion for new trial, and the trial judge, sitting as the “thirteenth juror,” granted the motion. The judge concluded that the case against Grier was based substantially on the testimony of Rimion Rawlings, and that the evidence showed that Rawlings was an accomplice. Under Georgia statutory law, the “testimony of a single witness is generally sufficient to establish a fact.” However, in felony cases “where the only witness is an accomplice, the testimony of a single witness shall not be sufficient” and must be corroborated by other evidence.

Here, the judge determined that Rawlings was an accomplice and the other evidence was not enough to corroborate his testimony. The State appealed to the Georgia Supreme Court, arguing the trial court abused its discretion by granting Grier a new trial. Meanwhile, Grier filed a cross-appeal with the high court, arguing that the trial court also should have determined that the evidence against him was legally insufficient to sustain his convictions.

In today’s opinion, written by **Justice Keith R. Blackwell**, “we find no merit in either of these claims, and we affirm.”

According to the facts at trial, on Dec. 21, 2017, the victim, Yarborough, and his nephew, Kenneth Kaiser, were walking to a check-cashing store with a check for about \$1,500. Along the way, they encountered Rawlings and Darius Jordan, who offered them a ride. Jordan and Rawlings were strangers to Yarborough and Kaiser, but they were friends with Grier. Jordan was driving a Honda that he had borrowed from Grier’s mother. Jordan and Rawlings drove Yarborough and Kaiser to the store, where Yarborough cashed his check and got back into the car. Yarborough then bought crack cocaine and marijuana from Jordan and smoked the crack while Jordan drove around and talked on his cell phone with someone. When Jordan reached the neighborhood where Grier’s mother lived, and where Grier occasionally stayed, Jordan pulled over and Rawlings got out of the car. Suddenly, a man dressed in black approached the Honda, greeted Jordan, and ordered Yarborough and Kaiser at gunpoint out of the car. The gunman ordered them to hand over their drugs and money, which they did. But when he ordered them to walk away, Yarborough threw his jacket at the gunman, who fired at him, killing him. Rawlings, Jordan, and the gunman then took off in the Honda. Kaiser described the gunman as a young, light-skinned black man with no facial hair and a buzz haircut. The State later indicted Grier as the gunman, but Kaiser never identified him in a lineup. He did, however, identify Rawlings and Jordan.

Rawlings testified at Grier’s trial after the State granted him immunity from prosecution. In his testimony, Rawlings said that it had been Grier who had approached the car in the neighborhood where his mother lived, and after ordering Yarborough and Kaiser out of the car at gunpoint, Grier had shot Yarborough. Rawlings said that after the shooting, he jumped back into the Honda with Jordan and Grier and they rode off. He said Jordan and Grier gave him \$50 to keep quiet about what he had witnessed.

In closing argument, Grier’s lawyer argued that there was no evidence to corroborate Rawlings’s testimony identifying Grier as the gunman. The State argued that the prosecution did not need to corroborate Rawlings’s testimony because Rawlings was not an accomplice. Following trial, the jury convicted Grier on all counts.

Following several hearings, the trial judge pointed out that during cross-examination, Rawlings admitted he was party to the crime of armed robbery, he was with Yarborough before the robbery, he was present at its planning, and he had prior knowledge it was going to occur. Rawlings then was present for the armed robbery and shooting of Yarborough, fled the scene with his co-conspirators, and accepted \$50 to remain quiet. Furthermore, the judge concluded that Rawlings’s testimony as an accomplice was not sufficiently corroborated, and so the judge granted Grier a new trial.

“This determination was within the judge’s substantial discretion,” today’s opinion says, “and because ‘the law and facts [do not] require the verdict notwithstanding the judgment of the presiding judge,’ we affirm the grant of the motion for new trial.”

As to the cross appeal, Grier argued the trial court also should have concluded that the evidence at trial was insufficient to convict him. “We disagree,” the opinion says. “As a matter of federal constitutional due process, the evidence – viewed in the light most favorable to the verdict of the jury – was sufficient to sustain the convictions, regardless of whether it showed Rawlings to be an accomplice.”

“As for the sufficiency of the evidence under state law – specifically the requirement of Georgia Code § 24-14-8 that accomplice testimony be corroborated – we likewise conclude that the evidence presented at trial was legally sufficient to sustain the verdict.”

Attorney for Appellant (State): Paul Howard, Jr., District Attorney

Attorney for Appellee (Grier): Brian Steel

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

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| * Slyrika Arnold (Fulton Co.) | <u>ARNOLD V. THE STATE (S20A1027)</u> |
| * Ulysses Blackshear, Jr. (Baker Co.) | <u>BLACKSHEAR V. THE STATE (S20A0713)</u> |
| * Melvin Lewis Brown, Jr. (Clarke Co.) | <u>BROWN V. THE STATE (S20A0782)</u> |
| * Jennifer Clark (Lamar Co.) | <u>CLARK V. THE STATE (S20A1021)</u> |
| * Rodney Carter Clark (Newton Co.) | <u>CLARK V. THE STATE (S20A0688)</u> |
| * Brandon James Cross (Hall Co.) | <u>CROSS V. THE STATE (S20A0717)</u> |
| * Freddie Finnissee, Jr. (Lowndes Co.) | <u>FINNISSEE V. THE STATE (S20A0966)</u> |
| * Rodney Gibbs (Fulton Co.) | <u>GIBBS V. THE STATE (S20A1006)</u> |

- * Antonio Griffin (Chatham Co.)
- * Joseph Heyward (Heyward Co.)
- * Garren Arnez Hill (Fulton Co.)
- * Diara Na'Shay D. Hood (Gwinnett Co.)

GRIFFIN V. THE STATE (S20A0789)
HEYWARD V. THE STATE (S20A0946)
HILL V. THE STATE (S20A0804)
HOOD V. THE STATE S20A1340)

(The Supreme Court has upheld Hood’s felony murder, armed robbery, and aggravated assault convictions for the shooting death of Steven Carden and the assault of Thomas Smith and her sentence of life in prison with no chance of parole. However, due to two merger errors, Hood’s conviction and 20-year concurrent sentence for the aggravated assault is vacated because it should have merged into the armed robbery of Carden. Similarly, Hood’s conviction and 20-year concurrent sentence for the aggravated assault of Smith should have merged with Hood’s conviction for the armed robbery of Smith.)

- * James McDowell (Fulton Co.)
- * Robert Miller (Muscogee Co.)

MCDOWELL V. THE STATE (S20A0739)
MILLER V. THE STATE (S20A0943)

(The Supreme Court has upheld Miller’s malice murder, felony murder, and aggravated assault convictions, as well as his convictions for other crimes, for his role in the 2012 shooting death of Antonio Robinson and the shootings of Martaveous Lawrence and Christopher Sheppard. Miller was sentenced to life plus 25 years in prison. However, his conviction and 20-year consecutive sentence for aggravated assault against Robinson has been vacated, as the jury’s guilty verdict on that charge should have been merged with the malice murder verdict for sentencing purposes because there is “no evidence to suggest the occurrence of an aggravated assault independent of the act which caused the victim’s death,” today’s opinion says.)

- * Herminio Nicolas Reyes (Gwinnett Co.)
- * Elijah N. Rodriguez (Gwinnett Co.)

REYES V. THE STATE (S20A0780)
RODRIGUEZ V. THE STATE (S20A0874)

(The Supreme Court has upheld Rodriguez’s conviction for the felony murder of Kevin Rivera and his life prison sentence with no chance of parole. However, the high court has vacated Rodriguez’s conviction and 20-year consecutive sentence for the aggravated battery of Rivera. “The crime of aggravated battery by shooting Rivera with a gun was the underlying felony for Rodriguez’s

felony murder conviction, so it should have merged with the felony murder conviction for sentencing purposes,” the opinion says.)

* Lajuante Stephens (Clayton Co.)

STEPHENS V. THE STATE (S20A0583)

* Michael Styles (Brooks Co.)

STYLES V. THE STATE (S20A0668)

* Joseph Thomas (DeKalb Co.)

THOMAS V. THE STATE (S20A0721)

* Jermaine Young (Gwinnett Co.)

YOUNG V. THE STATE (S20A0859)

IN LAWYER DISCIPLINARY MATTERS, the Georgia Supreme Court has accepted petitions for **voluntary surrender of license** – tantamount to disbarment – from attorneys:

* Vincent Chidozie Otuonye **IN THE MATTER OF: VINCENT CHICOZIE OTUONYE (S20Y1265)**

* Elizabeth Vila Rogan **IN THE MATTER OF: ELIZABETH VILA ROGAN (S18Y1181)**