



Supreme Court of Georgia

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CASES DUE FOR ORAL ARGUMENT

Summaries of Facts and Issues

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Wednesday, August 12, 2020

10:00 A.M. Session

GRAY V. THE STATE (S20G0192)

In this appeal, both State prosecutors and lawyers for the defendant, who was convicted of sexual exploitation of children, are arguing against a ruling by the Georgia Court of Appeals and asking the state's highest court to reverse it.

In 2015, a **DeKalb County** grand jury indicted **Mark Gray** for five counts of sexual exploitation of children after Gray was identified in an undercover operation as sharing large

amounts of child pornography. Police ultimately discovered about 650 images and videos of child pornography on Gray's electronic devices. On Jan. 9, 2017, Gray pleaded guilty to all counts and was sentenced by Judge Asha Jackson to 20 years to serve 10 in prison. Less than a year later, on Dec. 6, 2017, Gray, who had no criminal history, filed a motion to modify his sentence. The State agreed that a reduced sentence was appropriate, and on Oct. 3, 2018, presented a consent order to Judge Vincent Crawford, who at the time was sitting by designation. Crawford signed the order that day, modifying Gray's sentence to five years of incarceration followed by 15 years on probation.

However, on Oct. 23, 2018, the original sentencing court, Judge Jackson, entered an order setting aside the consent order and reinstating the original sentence of 20 years to serve 10 in prison. Judge Jackson found "the modification to be inappropriate and not in the interests of justice." Gray appealed Jackson's order to the Court of Appeals, the state's intermediate appellate court, arguing that the trial court violated his constitutional rights by imposing a higher sentence after he had already begun serving his modified sentence, therefore resulting in a void and illegal sentence. The State likewise argued that the trial court's order was void. During arguments before the Court of Appeals, the judges asked about the time limits imposed by Georgia Code §17-10-1 (f), and asked whether the state required that the trial court rule on a motion to modify a sentence within one year. Both parties agreed that as long as the motion to modify the sentence was filed within the one-year time frame, the trial court was not required to rule on it within the one-year time frame. Both parties agreed that Judge Crawford's consent order was valid while Judge Jackson's subsequent order was void. The Court of Appeals, however, disagreed and affirmed the order vacating the modified sentence and reinstating the original sentence. The appellate court ruled that based on §17-10-1 (f), Judge Crawford had lacked the authority to enter a consent order more than one year after Gray was sentenced. Gray now appeals to the state Supreme Court, which has agreed to review the case to determine whether the Court of Appeals was wrong. Both parties argue that the Court of Appeals' interpretation of the statute §17-10-1 (f) is incorrect, and that Judge Crawford had the authority to rule on Gray's motion, even if the ruling occurred outside the one-year time frame.

Attorneys for Appellant (Gray): Brian Stee, John Petrey

Attorneys for Appellee (State): Sherry Boston, District Attorney, Elizabeth Brock, Asst. D.A.

HORTON V. THE STATE (S20A0799)

In this **Candler County** case, **Quentin Lee Horton** is appealing his convictions for malice murder and other crimes in connection with the stabbing death of Jeffrey Darren Hagan. On Feb. 10, 2015, Hagan was found face-down and burned in a fire at his home. He had been stabbed 14 times in his upper chest and the medical examiner determined he had died from the wounds prior to the fire. Horton was the last person known to have been with Hagan prior to his death. Following a jury trial, Horton was convicted of malice murder, felony murder, aggravated assault, arson, burglary, concealing the death of another, and possession of a firearm by a convicted felon. He was sentenced as a recidivist to life in prison with no chance of parole. Horton now appeals to the state Supreme Court, arguing that he was deprived of his constitutional right to an impartial jury, the trial court made multiple errors in its instructions to the jury, the State knowingly misled the jury regarding physical evidence, his trial attorney was ineffective, and there was insufficient evidence to support the charge of concealing a death. In

sum, he argues he was denied a fair trial, and the high court should reverse his convictions and sentence.

Attorney for Appellant (Horton): Jackie Tyo, Office of the Appellate Defender

Attorneys for Appellee (State): Hayward Altman, District Attorney, Jessica Wilson, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Eric Peters, Asst. A.G.

AULD ET AL. V. FORBES ET AL. (S20G0020)

AULD ET AL. V. FORBES ET AL. (S20G0021)

At issue in these related appeals that stem from a wrongful death lawsuit is whether Georgia law or the law of another country applies in determining whether the lawsuit was filed within the statute of limitations.

Tomari Jackson, 14 years old, drowned on Feb. 13, 2016 in the Sibun River during a field trip to Belize. The trip was sponsored by his **Cobb County** high school, and when the boy drowned, he was on a property, Monkey Bay Wildlife Sanctuary, that was owned by Matthew Miller, a Georgia citizen. On March 24, 2017, Tomari's mother, **Adell Forbes**, filed a lawsuit in Cobb County State Court against Monkey Bay, Miller, Cobb County Government, Cobb County School District, and the six chaperones, who included **James Auld** and three other Cobb County teachers, as well as two retired teachers, Dr. Wesley McCoy and his wife, Deborah McCoy. Forbes subsequently dismissed her claims against Cobb County Government. The trial court then dismissed the lawsuit against the school district on the grounds the district was protected by sovereign immunity. The trial court later also granted the motions to dismiss the lawsuit filed by the remaining defendants, finding that the teacher chaperones were entitled to official immunity and that the one-year limitation period in the Belize Law of Torts Act barred all of Forbes's claims against all defendants because Forbes failed to file her lawsuit within the one-year deadline.

Forbes appealed the decision to the Georgia Court of Appeals, the state's intermediate appellate court, which reversed the lower court's ruling. It determined that Georgia law applied to the case because a Belizean limitation period cannot apply in Georgia as a matter of public policy. Under Georgia law, the limitation period for filing wrongful death claims is two years. Therefore, under Georgia law, Forbes filed her lawsuit in time. Auld and the others now appeal to the Georgia Supreme Court.

Attorneys for Appellants (Auld et al.): Lee Clayton, Jennifer Nichols, Leigh Wilco

Attorneys for Appellee (Forbes): Michael Terry, Amanda Seals, Tricia Hoffler, Robert Arrington, Jr., Latif Oduola-Owoo, Katrenia Collins