



## Supreme Court of Georgia

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### **CASES DUE FOR ORAL ARGUMENT** **Summaries of Facts and Issues**

**Please note:** *These summaries are prepared by the Office of Public Information to help news reporters determine if they want to cover the arguments and to inform the public of upcoming cases. The summaries are not part of the case record and are not considered by the Court at any point during its deliberations. For additional information, we encourage you to review the case file available in the Supreme Court Clerk's Office (404-656-3470), or to contact the attorneys involved in the case. Most cases are decided within six months of oral argument.*

**Thursday, August 13, 2020**

**10:00 A.M. Session**

**THE STATE V. COPELAND (S20A0820)**

**THE STATE V. SCOTT (S20A0821)**

**THE STATE V. HOWELL (S20A0822)**

In this highly-publicized case, the State is appealing a trial judge's decision granting three former **Washington County** sheriff's deputies immunity from prosecution shortly before they were due to go on trial for the murder of 58-year-old Eurie Lee Martin. Martin died July 7, 2017

after Sergeant **Henry Lee Copeland**, Deputy **Michael Howell**, and Deputy **Rhett Scott** – all with the Washington County Sheriff’s Office – answered a call of a suspicious person from a man in the town of Deepstep who said a man who was acting crazy or drunk had come up his driveway and he had to order him off his property. Martin, who suffered from schizophrenia and lived in a group home in Milledgeville, was walking to Sandersville and came up the man’s driveway asking for a drink of water. The heat index that day exceeded 100 degrees. The man refused and Martin left. The man then called 911. When the law enforcement officers caught up to Martin and asked to speak to him, Martin continued walking and refused their instructions to “come here” and “get out of the road.” Martin, who told them to “leave me alone,” kept walking. Dashcam video from the patrol cars captured portions of the encounter. Howell later testified, “He had an evil look in his eye like he didn’t want to talk to me or whatever...And my gut told me something was wrong and not to get out of the car. And I stayed in the car and the gentleman (Martin) kept walking.” Eventually, the officers deployed two different Tasers against Martin, with 15 recorded applications during a 4 minute 17 second window. According to the State, all three officers converged on Martin’s fallen body to place him in handcuffs, then left him lying face down with his hands secured behind his back before he was rolled over to begin resuscitation efforts. Martin, who was unarmed, died at the scene.

In August 2018, a Washington County grand jury indicted Copeland, Howell, and Scott for felony murder, involuntary manslaughter, false imprisonment, aggravated assault, simple assault, and reckless conduct. They filed a motion for immunity from prosecution and following a two-day hearing, on Nov. 22, 2019, the judge granted all three officers immunity from prosecution. Based on the testimony of Howell and Copeland, the judge found that Martin took “a defensive stance and clinch[ed] his fists. These acts cause[d] [Appellees Howell and Copeland] to believe Mr. Martin [was] about to fight.” The judge wrote in his order that “Defendants have shown by a preponderance of the evidence that they were justified in their actions based upon a reasonable belief that the force used in the seizure and arrest of Mr. Martin was reasonably necessary under the circumstances.”

The State now appeals to the Georgia Supreme Court, arguing that the trial court “impermissibly expanded the boundary lines of criminal immunity drawn by the General Assembly to encompass an affirmative defense the legislature intended for consideration by a jury, but never intended to have the ability to stop trial altogether. As such, the trial court’s grant of statutory criminal immunity should be reversed.” Attorneys for the officers argue the trial court correctly ruled that the officers’ “use of force was justified as the officers reasonably believed that such force was necessary to defend themselves and each other against Martin’s imminent use of unlawful force and to prevent death or great bodily injury to themselves and each other.” They ask the high court to affirm the trial court’s grant of immunity from prosecution.

**Attorneys for Appellant (State):** Samuel Altman, District Attorney, Kelly Weathers, Asst. D.A.  
**Attorneys for Appellees:** Paul Williams, Pierce Blich, IV, Shawn Merzлак

### **EDVALSON V. THE STATE (S19G1516)**

In this appeal of a **Gwinnett County** case, the State agrees with the defendant it prosecuted that under Georgia statutory law, the defendant can only be convicted and sentenced for a single count of possession of child pornography with intent to distribute rather than

multiple counts based on the amount of images he had.

The State charged **Thomas Edvalson** with possessing an extensive collection of digital images depicting child pornography, associated with his website, “Cruels.net.” He was arrested when a network of law enforcement agencies isolated his IP address and executed search warrants on his home and electronic equipment. Edvalson was charged with 22 violations of Georgia Code §16-12-100, Georgia’s statute criminalizing Sexual Exploitation of Children. The 22 counts arose from 11 distinct images; for each image, Edvalson was charged with one count of possession, and one count of possession with intent to distribute. In March 2017, a Gwinnett County jury convicted him of all charges. At sentencing, the trial court merged the 11 convictions for possession into the 11 convictions for possession with intent to distribute and sentenced him to 60 years, with the first 19 to be served in prison. Edvalson appealed to the Georgia Court of Appeals, the state’s intermediate appellate court, which upheld the trial court’s ruling. He now appeals to the state Supreme Court, which has agreed to review the case to determine whether the Court of Appeals erred in failing to merge Edvalson’s convictions into a single conviction under §16-12-100 (b) (5).

Edvalson’s attorney argued the appellate court did err and requests that the Supreme Court merge the counts into a single count and remand the case to the trial court for resentencing. In its brief, the State, represented by District Attorney Daniel Porter, states that although it has “grave misgivings about the result of this case from a policy standpoint, it must concede that as a matter of statutory interpretation, Appellant’s (i.e. Edvalson’s) argument appears to be correct with specific regard to §16-12-100 (b) (5)...Unless and until the General Assembly sees fit to amend the language of §16-12-100, the subsection criminalizing possession of child pornography with intent to distribute must be read to support only a single conviction and sentence arising from a single course of conduct.” That said, the State argues “the issue is one of *multiplicity* rather than *merger*,” and this is an opportunity for the high court to clarify the law. The correct remedy is *not* to reverse the Court of Appeals decision and direct the trial court to *merge* all of Edvalson’s convictions and sentences into one, the State contends. Rather, the remedy is to reverse the Court of Appeals decision and declare that all but one of Edvalson’s sentences are “surplus” sentences which must be vacated by operation of law, and remand the case to the trial court for sentencing consistent with its holding.

**Attorney for Appellant (Edvalson):** Jess Johnson

**Attorneys for Appellee (State):** Daniel Porter, District Attorney, Samuel d’Entremont, Asst. D.A.