



Supreme Court of Georgia
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CASES DUE FOR ORAL ARGUMENT

Summaries of Facts and Issues

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Thursday, September 17, 2020

10:00 A.M. Session

JONES V. THE STATE (S20A1245)

Delaljuwan Jones is appealing his convictions and life-without-parole prison sentence for the shooting death of Stanley Hill and the aggravated assault of three others in **Grady County**.

According to prosecutors, in January 2015, Jones and his friends, including Alvin Price, drove from Havana, Florida to attend a car show that was being held in Cairo, Georgia. Local residents also attended. Following the show, a number of attendees left the local park for Cairo Mart gas station to continue the celebration. While the party was in progress at the gas station,

Price began throwing money in the air that rained down on the crowd. This action from the Havana group did not go well among the locals, including Stanley Hill, and the mood became tense. An argument broke out, and witnesses said they saw some people begin flashing gang signs. During the commotion, Hill punched Alvin Price, and Jones pulled out a handgun and shot multiple times into the crowd. Hill was shot twice by the gunfire and later died from his injuries. Three others were also struck but survived. Several witnesses later testified that Jones was the only person with a gun at the gas station that night.

Jones was tried in September 2015 and found guilty of malice murder, felony murder and four counts of aggravated assault. He was sentenced to life without parole plus 60 years in prison. He now appeals to the state Supreme Court.

Jones's attorney argues that because there was evidence that Jones was justified in using force in defense of others, the trial court erred in denying Jones's request that the judge instruct the jury on the law of justification prior to jurors' deliberations. Because of this, and because the State failed to disprove the defense's theory that there were other shooters who shot the three other victims – charges against Jones that were based on circumstantial evidence rather than direct evidence – Jones's convictions should be reversed, the attorney contends.

The State argues there was sufficient evidence to support Jones's convictions for aggravated assault of the three surviving victims and that the trial court did not err in denying Jones's request that the jury be charged on justification because the charge was unwarranted. Even if it were a mistake not to make the charge, any error was harmless and did not contribute to the verdict, the State contends.

Attorney for Appellant (Jones): Ryan Locke

Attorneys for Appellee (State): Joe Mulholland, District Attorney, Moruf Oseni, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Meghan Hill, Asst. A.G.

SMALLWOOD V. THE STATE (S20A1274)

In this **Paulding County** case, **Derek Smallwood** is appealing his convictions for Entering an Automobile, Theft by Taking, and Possession of Drug Related Objects. Smallwood argues the state's Entering an Auto statute is unconstitutional due to its vagueness.

On Jan. 18, 2019, units of the Paulding County Sheriff's Office were dispatched to Briar Patch BBQ's employee parking lot in reference to a possible "Entering an Automobile." A co-worker had told the owner of the tan Toyota Camry that someone was in his car. Upon arrival, a sheriff's deputy approached the car and told the person later identified as Smallwood to get out of the car, which he did. The vehicle's owner said he did not know Smallwood and had not given him permission to be in the car. The owner told deputies that missing from the car were his cell phone and a bottle of laundry soap. Both were later found in Smallwood's backpack. Also in Smallwood's backpack were a glass smoking pipe with burnt residue of marijuana, a grinder, and a digital scale. When deputies asked Smallwood about the car, he told them that he had been cold, thought the car looked abandoned, and climbed in. They then arrested him for Entering an Automobile, Theft by Taking, and Possession of Drug Related objects.

At a "bench trial," i.e. a trial before a judge with no jury, Smallwood's attorney challenged the unconstitutional vagueness of the Entering an Auto statute. As an alternative, he argued that the "rule of lenity" rendered his conduct Criminal Trespass, which is a misdemeanor.

The trial judge disagreed and convicted him as charged. Smallwood now appeals to the Georgia Supreme Court, renewing his argument and asking the Court to invalidate the statute which violates the prohibition against vague laws.

Attorneys for Appellant (Smallwood): Hunter Rodgers, Keegan Gary, Office of the Public Defender

Attorneys for Appellee (State): Donald Donovan, District Attorney, A. Brett Williams, Asst. D.A.

GIALENIOS V. THE STATE (S20A1196)

A Gainesville man is appealing his convictions and life-without-parole prison sentence for the murder of his lover's husband.

In this highly publicized case, **Robert Gialenios** was convicted by a **Cherokee County** jury of gunning down Bryan Overseth while he was walking his dog the night of Jan. 21, 2017 near the home of his father-in-law in Holly Springs, GA.

According to state prosecutors, Gialenios and his wife, Kerri Overseth, had moved from Georgia to Montana in 2014 and had come back to visit her family. The Overseths were married for 16 years and had three children of their own in addition to Kerri's older son from a prior marriage. At the time of Bryan's death, she was pregnant with their fourth child.

In June 2016, Kerri met Gialenios through Instagram when she was getting a bracelet fixed that she had previously bought from a company belonging to Gialenios and his ex-wife. The next month, after her father had a stroke, Kerri traveled to Georgia from Montana and it was during that week that she met Gialenios in person for the first time. The two began a sexual affair, with her sneaking him into her father's house through a window. After she returned to Montana, she and Gialenios continued to communicate daily, according to the State, and he urged her to leave her husband. Ultimately, Kerri told Gialenios she was again pregnant with her husband's child.

In December 2016, the entire Overseth family came back to Georgia for the holidays. Kerri and the children stayed with her sister while Bryan and their dog stayed at the home of Kerri's father so Bryan could work without distractions. During that time, Gialenios visited Kerri frequently at her sister's home where they continued their affair, according to the State. On Jan. 20, 2017, Kerri informed Gialenios that she would be going back to Montana in early February with her husband and children. He continued to pressure her to stay with him.

The next night, Jan. 21, Gialenios was in Cherokee County, near where Bryan Overseth was staying with his father-in-law, according to cell phone records. A witness later reported seeing his white Toyota 4runner parked at a nearby Mexican restaurant. Meanwhile, Bryan spent the earlier part of that night with the couple's daughter for a "daddy-daughter" date. Later, at about 10:15 p.m., he went out in the neighborhood to walk their dog. When Bryan didn't return home in a normal amount time, his father-in-law went looking for him. He found Bryan lying on his back on the road behind the home. Bryan had been shot point blank in the forehead. Officers found a .22 caliber shell casing near his body, although no gun was ever found. When Holly Springs police detectives visited the home of Kerri Overseth's sister to inform Kerri of her husband's death, they asked her who would want to kill him. She gave them the name of Gialenios. Investigators later found a shell casing at the house where Gialenios had lived with his ex-wife that the GBI concluded had been shot from the same weapon as the shell casing found at

the crime scene.

According to testimony at trial, when Bryan Overseth was laid to rest on Jan. 28, 2017, Gialenios came to the funeral with what appeared to be dead flowers. The evening of Feb. 1, 2017, Gialenios placed a package for “Kerri Ann” containing two Hallmark Valentine’s Day cards, a red rose, and a handwritten invitation for a date on the back porch of her sister’s home. Gialenios was arrested the next day.

Following trial, on Feb. 7, 2019, the jury found Gialenios guilty of malice murder, felony murder, aggravated assault, and possession of a firearm during the commission of a felony. The judge sentenced him to life without the possibility of parole for malice murder plus five years on the firearm charge. Gialenios now appeals to the state Supreme Court, enumerating seven errors, including that there was insufficient evidence to support his convictions beyond a reasonable doubt. His attorney asks the high court to reverse his convictions or remand the case for a new trial. The State responds that his arguments are without merit and his convictions and sentences should be upheld.

Attorney for Appellant (Gialenios): James Luttrell

Attorneys for Appellee (State): Shannon Wallace, District Attorney, Zachary Smith, Dep. Chief Asst. D.A., Cliff Head, Asst. D.A., Christopher Carr, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Kathleen McCanless, Asst. A.G.