



## Supreme Court of Georgia

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## SUMMARIES OF OPINIONS

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### **GIBSON v. HEAD, WARDEN (S26A0185)**

The Supreme Court of Georgia has affirmed the habeas court's denial of **Exzavious Gibson**'s second petition for writ of habeas corpus, which challenged the legality of his 1990 convictions for murder and armed robbery in **Dodge County**.

A jury found Gibson guilty of the murder of a grocery store operator during an armed robbery committed when Gibson was 17. Gibson subsequently was sentenced to death for murder and life in prison for armed robbery. His convictions and sentence were affirmed by the Supreme Court of Georgia in 1991. Gibson's first state petition for writ of habeas corpus in Butts County Superior Court was denied in 1997, and his request to appeal was denied by the Supreme Court in 1999. In 2000, Gibson filed a second petition. One of Gibson's main contentions was that the lawyer who represented him at trial and on direct appeal, Daniel Mullis, had a conflict of interest by working as a special assistant attorney general for the State while also defending Gibson against state prosecution.

After a lengthy procedural history—during which time the habeas court vacated Gibson's death sentence based on his age at the time of the murder but allowed his convictions to stand—the habeas court ultimately denied relief, and Gibson appealed.

The Supreme Court [heard oral arguments in the case on Jan. 20, 2026](#). Gibson argued that his criminal convictions should be vacated because he was denied the right to effective assistance of counsel due to his trial counsel’s conflict in representing him while also working as a special assistant attorney general.

Today’s unanimous opinion, authored by **Justice Shawn Ellen LaGrua**, affirms the habeas court’s denial of Gibson’s petition because “the record supports the habeas court’s conclusion that Gibson failed to show that an actual conflict of interest existed that significantly and adversely affected his trial counsel’s performance.”

“A review of the record and our prior decisions in Gibson’s cases support the habeas court’s conclusions that, despite any potential conflict of interest, Mullis diligently represented Gibson at trial and on direct appeal, and Mullis’s separate work as a contract Special Assistant Attorney General for the Department of Transportation did not impede or impair his willingness or ability to fulfill his obligations to professionally and staunchly represent Gibson in his criminal case,” Justice LaGrua writes.

The opinion also states that while “the better practice would certainly have been for Mullis to disclose his role as a Special Assistant Attorney General to Gibson and the trial court in compliance with OCGA § 45-15-30,” the Supreme Court “cannot say—given the facts and circumstances presented in this case—that Mullis’s failure to make that disclosure adversely affected his representation of Gibson.”

*[Chief Justice Nels S.D. Peterson was recused in this case.]*

**Attorneys for Appellant (Gibson):** Megan Hurley, Valerie Pallos, Sarah Gerwig, Dylan McDowell\*, Matthew Shatto\*, Vatia Frazier\*, Lucious Moore\*

**Attorneys for Appellee (Head):** Christopher M. Carr, Attorney General of Georgia; Beth A. Burton, Deputy A.G.; Ross W. Bergethon, Principal Deputy Solicitor General; Christian Sullivan, Asst. A.G.

\* = Authorized to practice as third-year law students with the Mercer University School of Law Habeas Project.

## **SANDERS v. THE STATE (S26A0222)**

The Supreme Court of Georgia has affirmed **Joshua Sanders**’s convictions for malice murder and related crimes in connection with the 2022 shooting deaths of Latorey Harden and her mother, Pamela Harden, in **Toombs County**.

On appeal, Sanders argued that the attorney who handled his motion for new trial was ineffective for failing to raise a claim that Sanders’s defense counsel at trial was ineffective for failing to “shape” and “guide” Sanders’s testimony on direct examination, which Sanders contended reflected negatively on his character.

Today’s unanimous opinion, authored by **Justice Verda M. Colvin**, states that Sanders’s claim is procedurally barred because it focused on his trial counsel’s alleged ineffectiveness rather than on his motion-for-new-trial counsel’s performance, and the Court has previously held that a defendant cannot raise a claim of ineffective assistance of trial counsel that was not raised

at the motion for new trial stage by recasting the claim on appeal as one of ineffective assistance of motion-for-new-trial counsel.

**Chief Justice Nels S.D. Peterson** has authored a concurring opinion, joined by Presiding Justice Sarah Hawkins Warren and Justices Charlie Bethel, Carla Wong McMillian, Shawn Ellen LaGrua, Verda M. Colvin, and Andrew A. Pinson, which points out flaws in Georgia’s post-conviction litigation system, including the Court’s long-standing rule requiring claims of ineffectiveness of trial counsel to be raised immediately on a motion for new trial.

“Georgia’s post-conviction litigation system is a mess,” Chief Justice Peterson writes. “It’s a mess in large part because of a series of well-meaning but short-sighted decisions this Court made over the course of several decades. Those decisions had a worthy goal: seeking to ensure that indigent defendants were entitled to appointed counsel for litigating claims of ineffective assistance of counsel. But the means we used to pursue that goal have made things worse, not better.”

The result, Chief Justice Peterson states, is a post-conviction litigation system that “prioritizes ineffectiveness claims (which have a low success rate) in exchange for imposing serious costs.”

These costs include delays in litigating appeals, Chief Justice Peterson states, as well as making “much harder the litigation of claims of preserved trial court error (which have a higher success rate).” The concurring opinion goes on to suggest that there may be legislative remedies.

**Attorney for the Appellant (Sanders):** Joshua B. Smith

**Attorneys for the Appellee (State):** Christopher M. Carr, Attorney General of Georgia; Beth A. Burton, Deputy A.G.; Meghan H. Hill, Sr. Asst. A.G.; Elizabeth H. Brock, Asst. A.G.; John A. “Tripp” Fitzner, III, Middle Judicial Circuit District Attorney; Jessica B. Wilson, Chief Asst. D.A.

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The Supreme Court of Georgia has upheld **murder** convictions and life prison sentences for:

\*Rodriquez Hamilton, Jr. (Glynn Co.)

**HAMILTON v. THE STATE (S26A0435)**

\*Quintavious Jackson (DeKalb Co.)

**JACKSON v. THE STATE (S25A1498)**

*[The Court also vacated his felony murder sentences and remanded the case back to the trial court for resentencing to fix a sentence merging error.]*

\*Terrance Medina (DeKalb Co.)

**MEDINA v. THE STATE (S26A0632)**

\*Johnson Mitchell (Fulton Co.)

**MITCHELL v. THE STATE (S26A0419)**

\*David Robinson (Fulton Co.)

**ROBINSON v. THE STATE (S26A0282)**

\*Ralph Rogers (Miller Co.)

**ROGERS v. THE STATE (S26A0128)**

\*Oscar Senior (Muscogee Co.)

**SENIOR v. THE STATE (S26A0510)**

\*Gregory Small (Fulton Co.)

**SMALL v. THE STATE (S26A0113)**

\*Aaron Strong (Cobb Co.)

**STRONG v. THE STATE (S25A1107)**

\*Maliek Woods (DeKalb Co.)

**WOODS v. THE STATE (S25A1088)**

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

\* Joseph William Cloud

**IN THE MATTER OF: JOSEPH WILLIAM  
CLOUD (S26Y0287)**

The Court also has **reversed the special master's order to deny opening default and has remanded back to the special master** the matter involving attorney:

\* Oksana Klymovych

**IN THE MATTER OF: OKSANA  
KLYMOVYCH (S26Y0042)**