



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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WALLACE V. THE STATE (S14A1371)

The Supreme Court of Georgia has upheld the murder conviction and two consecutive life prison sentences given to a man for randomly robbing and killing a popular high school football star as he waited at an Atlanta bus stop.

In this high-profile **Fulton County** case, the high court has unanimously rejected Edward Wallace's argument that there was not enough evidence to convict him. Instead, **Justice Keith Blackwell** writes for the Court, "we conclude that the evidence adduced at trial was legally sufficient to authorize a rational trier of fact to find beyond a reasonable doubt that Wallace was guilty of the crimes of which he was convicted."

According to the facts of the case, Kyle Moore, a 17-year-old junior, was a standout student and athlete at Washington High School where he was a three-year starter on the football team. He was being heavily recruited by a number of colleges, including Harvard and Brown, and was only days away from taking his SAT college boards, according to briefs filed in the case.

On May 3, 2007, after attending football practice, Moore took the bus to North DeKalb Mall to play Pokemon and other card games with young people who gathered there every Thursday night. After leaving the mall at about 9 p.m., he took a MARTA train to the Lakewood station, then walked to the bus stop to catch the bus home.

Meanwhile, Maurice Aikens, 24, and his girlfriend, LaDasha Eison, were meeting across town at Wallace's house, where the three decided to "go and rob somebody." Wallace, 25, said the train station would be a good place to find a victim, according to Eison, who later testified for

the State. After waiting behind a house near the station, they saw Moore, whom they did not know, approaching the bus stop. While Eison served as lookout, Wallace, who was armed with a black gun, and Aikens ran up to Moore and at gunpoint, stole Moore's empty wallet and cell phone. Wallace then shot Moore in the chest. After Moore fell to the ground, Wallace shot him again a number of times. A woman who lived near the station testified she watched through the window as Moore tried to get up several times after he was shot before he collapsed completely. She called 911, but Moore died at the scene. Moore's backpack was still on his person, and inside, investigators found recruitment letters from the University of Illinois and Middle Tennessee State University.

Following Moore's murder, Eison, who worked at a local Mrs. Winner's fast food restaurant, mentioned the shooting to co-workers, who subsequently called police. Eison eventually told police what had happened. Wallace's girlfriend also testified for the State that the day after the murder, Wallace said he wanted to show her where the murder had occurred. At the site, Moore's family had placed a photo and signature page for his family and friends to sign. Wallace signed the page as "Keon," which was his nickname. The following day, he and his girlfriend went to a local tattoo shop where Wallace had "unknown killer" tattooed on his arms. While searching Wallace's home, officers with the Atlanta Police Department recovered a 9-millimeter handgun which was later tied to the eight shell casings collected at the scene. They also found rap lyrics Wallace had just written, in which he said he targeted blacks and if one would not act, "I lay 'em flat. Then I put eight holes in his back."

Following a joint trial, the jury found Wallace and Aikens guilty of murder, armed robbery and other crimes, and they were both sentenced to two consecutive life sentences plus 10 years.

In addition to arguing that the evidence was insufficient, Wallace argued in his appeal that the trial court made a number of other errors that should result in a reversal of his convictions, including that the statements he made to police after his arrest never should have gone before a jury because he was under the influence of cocaine when he made them.

"The mere fact that [Wallace] may have been somewhat intoxicated at the time of the interview does not automatically render evidence thereof inadmissible," today's opinion says, quoting the state Supreme Court's 2013 decision in *Norton v. State*. Wallace also claimed that his trial attorney was ineffective in violation of his constitutional right to effective representation, in part because he failed to file a motion to sever Wallace's trial from Aikens. Wallace claimed his case was damaged because the evidence against Aikens was overwhelming while the evidence against Wallace was merely circumstantial. "But the evidence of Wallace's guilt is not merely circumstantial, nor is it weaker than the evidence of Aikens' guilt," the opinion says in rejecting this and all of Wallace's other arguments. "Judgment affirmed."

Attorney for Appellant (Wallace): Brandon Lewis

Attorneys for Appellee (State): Paul Howard, Jr., District Attorney, Paige Whitaker, Dep. D.A., Lyndsey Rudder, Sr. Asst. D.A., Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Andrew Sims, Asst. A.G.

GRIFFIN V. THE STATE (S14A1485)

An **Effingham County** man, who was sentenced to life without parole for the murder of his girlfriend's toddler son, has lost his appeal in a decision today by the Georgia Supreme Court.

On June 28, 2009, 2-year-old Dylan Helmey was at home in the Spring Hollow Apartments with his younger half-brother, Jaiden, and Lester Casey Griffin, who was babysitting the children. Griffin was the live-in boyfriend of the little boys' mother, who had left home that morning at 11. At about 1:30, Officer Brion Hunt of the Springfield Police Department responded to a 911 call in reference to a child who was not breathing. When the officer arrived, Griffin approached him, cradling Dylan in his arms. Hunt observed that the toddler was cold to the touch and his face and hands had begun to turn blue. He attempted to resuscitate the little boy, but Dylan remained unresponsive. The only injury Hunt observed was a cut on Dylan's chin. When he asked what had happened, Griffin said he had gone to the bathroom, and when he returned, he had found the boys playing with his CDs. He said that while he was picking them up, he heard a commotion and turned around to see a Tonka truck rolling across the living room floor. Dylan was lying on the ground. Griffin noticed the cut on his chin, and said he left the room to get baby wipes and bandages. When he returned, Dylan wasn't breathing, at which time he called 911.

The day after Dylan's death, an autopsy was conducted, and the medical examiner found 118 distinct external and internal injuries that had been inflicted on the toddler during the two hours preceding his death. The medical examiner listed the cause of death as resulting from battered child syndrome, according to briefs filed in the case. Dylan had experienced multiple episodes of violent assaults, but the medical examiner found that the most significant injury was a one-inch laceration to the right atrium of Dylan's heart. The amount of force required to cause that type of injury would have been extreme, causing significant pain, extreme difficulty breathing, unconsciousness, and death within about five minutes. Based on information from the autopsy, GBI Agent Eugene Howard went back to the home and again interviewed Griffin. After informing Griffin of his rights, Howard confronted Griffin with the results of the autopsy. Griffin then admitted he had gotten angry at Dylan for getting into his CDS and had hit him in the chest. He also admitted it was not the first time Dylan had been harmed while in his care. Once Dylan had gotten a black eye while staying with Griffin. But Griffin said he and Dylan's mother together decided not to seek medical care, but chose instead to pull him out of daycare so the Department of Family and Children Services would not be notified.

Griffin was charged with malice murder and three counts of felony murder based on cruelty to children, aggravated battery and aggravated assault. At a jury trial in November 2010, Griffin was convicted of all but malice murder. Instead of malice murder, the jury convicted him of the less serious crime of involuntary manslaughter. He was sentenced to life in prison without the possibility of parole plus an additional 20 years for cruelty to children.

In his appeal, Griffin's attorney argued that his convictions and sentence should be reversed because the jury's verdicts of felony murder and involuntary manslaughter were "mutually exclusive." The Georgia rule prohibiting mutually exclusive verdicts states that "where a guilty verdict on one count logically excludes a finding of guilty on the other," the verdicts are considered mutually exclusive. The rule applies to multiple guilty verdicts that cannot be logically reconciled. Griffin argued that by finding him guilty of involuntary manslaughter, the jury determined that the blow to Dylan's chest constituted battery, which is a

misdemeanor. But by finding Griffin guilty of felony murder, as well as the underlying felonies, the jury made a simultaneous finding that the blow to Dylan's chest made him guilty of felony offenses. The finding that the blow to Dylan's chest was both a misdemeanor and a felony cannot be logically reconciled because it is inherently contradictory, Dylan's attorney argued. Therefore, his convictions must be reversed.

"We disagree," today's opinion says, written by **Justice Harold Melton**. Under the law, a person commits involuntary manslaughter "when he causes the death of another human being without any intention to do so by the commission of an unlawful act other than a felony." In this case, that unlawful act was battery, which includes the intentional causing of "substantial physical harm or visible bodily harm to another." To convict Griffin of both felony murder and involuntary manslaughter, the jury did not have to find that Griffin acted with malice in killing the little boy, but only that Griffin had intentionally caused the child physical pain and harm. "Accordingly, Griffin's verdicts were not mutually exclusive, and his convictions must stand," the opinion says.

Attorney for Appellant (Griffin): Robert Persse

Attorneys for Appellee (State): Richard Mallard, District Attorney, Benjamin Edwards, Asst. D.A., Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Meghan Hill, Asst. A.G.

TURNER V. THE STATE (S14A1409)

In another murder of a baby, the Supreme Court of Georgia has upheld the murder conviction and life prison sentence given to a woman for holding her hand over her 5-week-old baby girl's nose and mouth and smothering her to death.

In today's unanimous opinion, **Justice Robert Benham** writes that the evidence "was sufficient to authorize a rational trier of fact to find appellant guilty beyond a reasonable doubt of the crimes for which she was convicted."

According to the facts of the case, on Nov. 19, 2007, Quanitta Yvette Turner, who was 22 at the time, called 911 to report that her baby, Malay Chandler, was not breathing. A paramedic with **Newton County** who responded to the call found Turner in the yard talking on the phone. Turner told the paramedic she thought she had rolled over on the baby during the night while the baby was in bed with her. The paramedic found Malay in the back bedroom lying on a bed. The baby was not breathing and had no pulse. Despite life-saving measures, the baby remained unresponsive and was pronounced dead at Newton Medical Center where she had been transported. The baby had a bruise under her left eye, and the autopsy revealed she had some bleeding under the skin of her back. The medical examiner also found an abrasion on the baby's lip. He later testified the eye injury had occurred within three days of the baby's death and the back injury had happened within 12 hours. At the time, the medical examiner believed the injuries had been inflicted upon the baby, but in his opinion the injuries would not have been fatal and he could not determine the cause of death, originally listing the manner of death as "undetermined." The police did not pursue the case any further and it lapsed for the following three years. In July 2010, however, Malay's father posted two comments on Facebook stating that Turner had killed their baby. He later testified that Turner had told him at least three times that she had held her hand over the baby's nose and mouth until she stopped crying and stopped breathing. In August 2010, Turner took out a restraining order against the father, and he in turn

reported to police he believed Turner had killed Malay. Police reopened their investigation and in an Aug. 24, 2010 interview, Turner admitted to police that she had covered the baby's nose and mouth to stop her crying. In a subsequent interview on Aug. 31, Turner admitted striking the baby as many as eight times with a television remote control because the baby would not stop crying. After listening to Turner's interviews with police, the medical examiner amended his autopsy report, listing the cause of Malay's death as smothering and the manner as homicide.

In August 2012, a Newton County jury found Turner guilty of felony murder, aggravated assault, and cruelty to children in the first degree, and she was sentenced to life in prison. She then appealed to the state Supreme Court, arguing that in addition to having insufficient evidence to convict her, her statements to police had not been voluntary and should have been suppressed at trial. She claimed that in her second interview with police, the officer had warned her she would be "drilled" in court and that if she told the officer the truth, it would be "a whole lot easier than you having to go in front of the jury and the court and explain why this 5-week old baby has two black eyes." Turner claimed that police "grossly misrepresented Ms. Turner's Fifth Amendment right to remain silent" and that "this misrepresentation of trial rights constitutes police coercion and thus rendered the second confession involuntary." But in today's opinion, the high court disagrees.

"A suspect's custodial statements are rendered involuntary and inadmissible after receiving *Miranda* warnings if the statements are the product of the slightest hope of benefit or the remotest fear of injury," the opinion says, adding that a "hope of benefit" would be a promise to reduce the charges or sentence and a "fear of injury" would involve physical or mental torture. "A detective's statement of opinion as to how a judge and jury might view a suspect's lack of cooperation does not 'relate to the charge or sentence facing the suspect,' and does not constitute physical or mental torture," which would make the statement involuntary, the opinion says. "Accordingly, appellant's statements during her second interview with police were voluntary and admissible."

Attorney for Appellant (Turner): Anthony Carter

Attorneys for Appellee (State): Layla Zon, District Attorney, Melanie Bell, Chief Asst. D.A., Candice Branche, Asst. D.A.

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

* Mason Dylan Babbage (DeKalb Co.)*

BABBAGE V. THE STATE (S14A1286)

* Maurius Javon Durham (Bibb Co.)

DURHAM V. THE STATE (S14A1296)

* Louis Francis (Cobb Co.)**

FRANCIS V. THE STATE (S14A1443)

* Marcus Funck (Richmond Co.)

FUNCK V. THE STATE (S14A1293)

* Michael Grissom (Fulton Co.)

GRISSOM V. THE STATE (S14A1431)

(The Supreme Court has upheld Grissom's convictions and life prison sentence, but finds the trial court erred in merging two conspiracy counts with his felony murder charges for the purpose of

sentencing. It is therefore sending the case back to the trial court for resentencing on those two convictions.)

* Samuel Roger Hall (DeKalb Co.)*

HALL V. THE STATE (S14A1287)

* Shawn Kitchens (Bibb Co.)

KITCHENS V. THE STATE (S14A1369)

* Nebula Denise McNeely (Columbia Co.)

MCNEELY V. THE STATE (S14A1570)

(The Supreme Court has upheld McNeely’s convictions and life-without-parole sentence, but it has ruled that the trial court erred in imposing an additional 5-year sentence for fleeing and eluding police, which should have been merged with the felony murder conviction, and it has thrown that sentence out.)

* Miracle Nwakanma (Cobb Co.)**

NWAKANMA V. THE STATE (S14A1442)

* Michael Rivers (Fulton Co.)

RIVERS V. THE STATE (S14A1411)

* Edward Wallace (Fulton Co.)

WALLACE V. THE STATE (S14A1371)

* Preston Whiting, III (Cobb Co.)

WHITING V. THE STATE (S14A1769)

* Co-defendants

** Co-defendants

IN DISCIPLINARY MATTERS, the Georgia Supreme Court has ordered a **Review Panel reprimand** of attorney:

* Tanya Yvette Brockington

IN THE MATTER OF: TANYA YVETTE BROCKINGTON (S14Y1387)

The Court has accepted a petition for voluntary discipline and ordered a **Review Panel reprimand** of attorney:

* Maurice Brown

IN THE MATTER OF: MAURICE BROWN (S14Y1732)

The Court has granted **certification of fitness for readmission** to practice law in Georgia to the following attorney, who was disbarred in 2008:

* Charles Houston Richards, Jr.

IN THE MATTER OF: MAURICE BROWN (S15Z0571)