



Supreme Court of Georgia

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SUMMARIES OF OPINIONS

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ROY AND BETTY STRICKLAND V. LEA STRICKLAND (S15G1011)

Grandparents who raised their daughter's three children for most of their lives have won their appeal in a decision today by the Supreme Court of Georgia.

With today's unanimous ruling, written by **Chief Justice Hugh Thompson**, the high court has reversed a Georgia Court of Appeals decision that would have returned their grandchildren to their daughter's custody, despite a **Cobb County** Superior Court's ruling that she was unstable and had a history of drug use.

"Given the evidence presented, we find the superior court was authorized to conclude that grandparents had demonstrated by clear and convincing evidence that a permanent award of custody to them would be in the children's best interest," today's opinion says.

According to the facts of the case, Lea Strickland gave birth to three children – a girl, C.S., in 1998, a boy, L.T., in 2000, and a second girl, I.S., in 2006. (The children's fathers are not involved in this custody dispute.) In 2006, while Lea was pregnant with I.S., police raided her home for drugs, and her parents, Roy and Betty Strickland, obtained temporary emergency custody of the children. In 2008, after the Department of Family and Children Services investigated Lea for drug use and child neglect, the Paulding County Juvenile Court found the children were deprived in their mother's care and, with the mother's consent, extended the grandparents' temporary custody, with supervised visitation for the mother. In mid-2010, the grandparents filed a petition for permanent custody of the children. In 2011, while their petition was pending, the case was transferred to Cobb County Superior Court. Throughout, the grandparents continued to have custody. During a five-day trial in 2013, two doctors testified as

expert witnesses that the children would suffer harm if returned to their mother. The guardian ad litem also testified that the children would suffer significant long-term emotional harm and physical harm if returned to Lea. Following the trial, which involved testimony from multiple witnesses, the judge issued a 30-page order, granting permanent custody to the grandparents and finding that the children would suffer long-term emotional harm if their mother was granted custody. The trial court found that the mother had no income or stable residence; that the children had bonded with the grandparents with whom they had lived exclusively since 2006 (I.S., who is almost 10 years old, has lived with no one other than her grandparents); that their mother's interest in her children since 2006 had been sporadic at best; and that the children had psychological issues that only the grandparents had addressed.

Lea Strickland appealed the lower court's decision, and the Court of Appeals reversed the grant of permanent custody to the grandparents, stating that "the evidence showed that the mother has rectified those issues that led to her temporary loss of custody of her children," that she had a stable home and job, that she was clear of drug use, and that she was successfully being treated for her bipolar mental health issues. "After a thorough review, we find that the grandparents have not proven by clear and convincing evidence that the children will suffer either physical or significant, long-term emotional harm if they are placed in the mother's custody," the appellate court ruled. The grandparents then asked to appeal to the Georgia Supreme Court, which agreed to review the case to determine whether the Court of Appeals properly applied the standard of review in its analysis of the trial court's award of permanent custody to the maternal grandparents.

"Because we find the Court of Appeals failed to properly apply the correct standard of review, we reverse the decision in this case," today's opinion says.

The grandparents claimed that the Court of Appeals failed to give the appropriate deference to the trial court's factual findings in this case, "and based on our review of the record, we agree," the opinion says. "In the appellate review of a bench trial, a trial court's factual findings must not be set aside unless they are clearly erroneous. Rather, due deference must be given to the trial court, acknowledging that it has the opportunity to judge the credibility of the witnesses." In this case, "the record demonstrates that the Court of Appeals conducted its own review of the evidence, giving insufficient deference to the trial court findings of fact and credibility determinations." By concluding that the evidence showed the mother had a job, had a stable living environment, was drug free and getting treatment for her mental health issues, had maintained a strong bond with her children and was capable of addressing the children's psychological needs, the Court of Appeals "disregarded much of the evidence on which the superior court relied.

"Mother's emotional immaturity, lack of parenting skills, inappropriate conduct, drug abuse, and irresponsibility toward her children were well documented in the record," the opinion says. "Although mother presented evidence aimed at showing she was prepared to meet her children's current and future needs, it was for the superior court, not the Court of Appeals to resolve conflicts in the testimony."

In custody disputes between a birth parent and close third-party relatives, Georgia statutory law says that the sole issue in awarding custody is the "best interest of the child." However, the law also states there is a presumption that it is in the best interest of the child to be awarded to the birth parent. To overcome that presumption, the third-party relatives must show

that the child would suffer either physical harm or “significant” long-term emotional harm if custody were awarded to the parent. In today’s opinion, the high court finds “the superior court was authorized to conclude that the statutory presumption in favor of mother had been overcome by clear and convincing evidence that the children would suffer significant long-term emotional harm if she was awarded custody. Accordingly, we reverse the decision of the Court of Appeals.”

Attorneys for Appellants (Roy and Betty): Hylton Dupree, Jr., Blake Carl

Attorneys for Appellees (Lea): Roy Barnes, Allison Barnes Salter

ATLANTA DEVELOPMENT AUTHORITY V. CLARK ATLANTA UNIVERSITY, INC. (S15A1684)

In an opinion today by the Georgia Supreme Court, Clark Atlanta University may go forward with its lawsuit claiming that when Morris Brown College went into bankruptcy, ownership of three of its properties reverted to Clark Atlanta University based on a 1940 deed.

In today’s unanimous decision, **Presiding Justice P. Harris Hines** writes that the **Fulton County** Superior Court correctly denied a motion by the city of Atlanta’s economic development agency seeking to dismiss the suit.

According to the facts, in 1940, Clark Atlanta University transferred three parcels of property to Morris Brown College, a historically black college that was in financial trouble at the time and at risk of losing its campus due to foreclosure. In a one-page deed, Clark conveyed the three parcels of land, consisting of about 13 acres, for \$1 as a charitable gift. At issue in this case is language in the deed which states: “The above property is conveyed subject to the condition that Morris Brown College shall use the same for educational purposes to wit: Undergraduate work in fields of the Arts and Sciences, except that nothing in this clause is to be construed as prohibiting Morris Brown College from offering graduate course [sic] in Theology, if it chooses to do so.” Following this “use restriction,” the deed says: “If at any time the said Morris Brown College shall cease to use said property for the particular educational purposes above set forth, the title to said property shall revert to and become vested in the Grantor or its successors.” Recently, in the aftermath of severe financial trouble, a dwindling student body and loss of accreditation, Morris Brown filed for Chapter 11 Bankruptcy. Through the bankruptcy proceedings, Morris Brown sold the three properties, along with others, to the Atlanta Development Authority, which is today known as “Invest Atlanta.” In September 2014, Clark Atlanta sued, seeking a declaration by the court that as a result of Morris Brown’s sale of the three properties and its consequent failure to use the properties for educational purposes, the property automatically reverted to Clark Atlanta. The next month, Invest Atlanta filed a motion asking the court to dismiss the case, challenging the scope of the use restriction and arguing the property did not revert to Clark Atlanta. The trial court ruled against Invest Atlanta and in February 2015, denied its motion to dismiss the case, finding that the use restriction in the 1940 deed was a valid restriction, that it fell within the “charitable purposes” exception to the general rule against putting restraints on the use of property, and that the restriction applies to all three parcels of the property, requiring Morris Brown to “possess and occupy” the properties. Invest Atlanta then appealed to the Georgia Supreme Court.

In today’s opinion, the Court finds that both the restriction on the use of the property and the statement saying the property would revert to the original owner if the property was used for

any other purpose “are valid and enforceable.” The superior court determined that the restriction applied to all three parcels of land, “and so it does,” the opinion says. “The construction of a deed which is unambiguous is to be handled like any other contract, that is, it is a matter for determination by the court, and its meaning and effect are questions of law for the court.” As the superior court noted, the 1940 deed is not ambiguous in stating that the use of the property and its reversion apply to all three parcels of the property. “The physical layout of the brief one-page deed itself, which conveys the three parcels simultaneously supports this conclusion,” the opinion says. “In construing a deed, the paramount consideration and overriding goal is to ascertain and give effect to the intent of the parties.” In this case, “the structure and language of the deed reflects the parties’ clear intent that the property, in toto, comprise a donation to Morris Brown College of a unified tract of land for the one and only purpose expressed in the deed, i.e., for the particular aspects of education set forth therein.”

“Certainly as a general proposition, real property may be ‘used’ for educational purposes in many ways, which might in another context include being sold to raise money for educational purposes,” today’s opinion says. But here, the very specific language of the deed militates “against such a broad construction of use. As noted, the restriction provides not only that the property be used for ‘educational purposes’ but then lists the fields of study which qualify as such ‘educational purposes.’” And the reverting of the property to Clark Atlanta “is triggered when grantee Morris Brown College itself ceases to use the property ‘for the particular educational purposes set forth’ in the deed.”

“Consequently, in the present circumstances, sale of the property to Invest Atlanta does not qualify as Morris Brown College’s ‘use’ of the property as contemplated in the deed,” the opinion says. “Accordingly, the judgment of the superior court is properly affirmed.”

Attorneys for Appellant (Invest Atlanta): John Watkins, Roy Hadley, Jr., J. Christopher Fox, II, Garrett Nail

Attorneys for Appellee (Clark): Bernard Taylor, Derin Dickerson

FINNEY V. THE STATE (S15A1739)

The Supreme Court of Georgia has reversed a **Bibb County** judge’s decision and ruled that when a Macon man goes on trial for the 2008 murder of a 55-year-old widow, evidence gleaned from a wiretap of his cell phone must be suppressed.

In this high profile case, **Justice Keith Blackwell** writes for the court that State prosecutors did not present a “satisfactory explanation” for their failure to “immediately” present the wiretap evidence to the judge so he could seal it, as required by federal law.

As a result, the “trial court should have granted the motion to suppress,” today’s opinion says.

According to briefs filed in the case, in early 2008, an investigator with the Jones County Sheriff’s Office approached the Bibb County District Attorney’s Office about conducting a wiretap investigation on the cell phone of Benjamin Finney. At the time, law enforcement officers believed Finney was involved in dealing cocaine and other controlled substances in Jones County. In February 2008, Assistant District Attorney Kimberly Schwartz applied for the 30-day wiretap warrant to put Finney’s text messages, emails, and phone conversations from his wireless phone under surveillance. By then, Finney was also a suspect in the Feb. 4, 2008 shooting death of 55-year-old Gwendolyn Cole in Bibb County. The widow, who lived in

Macon, had been shot multiple times after two men who had earlier come to her home looking for her son, allegedly bombarded the house with dozens of shots from an assault weapon. Judge Tilman Self, III granted the warrant application, and on March 7, a different judge (Judge Edgar Ennis, Jr.) signed an order that allowed the warrant to remain in effect another 30 days until April 7, 2008. The interception of Finney's communications ended on March 20, 2008, and Finney was arrested and told that police had had his cell phone under surveillance and that he had the right to examine and copy the recordings that had been made.

Under federal law (U.S. Code § 2518), the government's electronic surveillance of a person generally requires a court order. And the recordings must be done in a way that will protect them from any alterations. Under the law, if State prosecutors want to use the recordings at trial, they must have the wiretap evidence sealed immediately upon expiration of the wiretap warrant to ensure there is no tampering with the evidence. Specifically the law states: "Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions." And: "The presence of the seal provided for by this subsection, or a *satisfactory explanation* for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom."

In this case, surveillance stopped on March 20, 2008 and the wiretap warrant expired April 7, 2008. However, it was not until April 23 (16 days after the expiration of the warrant) that the wiretap evidence was submitted to Judge Self and the evidence was sealed. After Finney and his co-defendant, Marlon S. Jackson, were indicted in 2013 for Cole's murder (Finney was also charged with aggravated assault and gun charges), Finney filed a motion to suppress the wiretap evidence. Following a hearing, the trial court denied the motion, finding that the State had provided a "satisfactory explanation" for its failure to immediately seal the evidence. The trial court concluded there were two circumstances which explained the State's 16-day delay: Prosecutor Schwartz said she had been preoccupied by a high-profile death penalty appeal at the time, and Judge Self was unavailable because he was attending a two-week training session by the National Judicial Council that ended April 10. Finney then appealed this pre-trial ruling to the state Supreme Court.

In today's opinion, the high court disagrees that the reason given by the State for failing to immediately seal the evidence was a "satisfactory explanation," as required by the law.

"When Congress provided in 18 United States Code § 2518 (8) (a) that recordings must be presented for sealing 'immediately,' it meant just what it said," the opinion says. "Applying the statutory requirement, courts have held that a delay of more than a couple of days in presenting recordings for sealing amounts to a failure to present the recordings 'immediately' and requires explanation."

In Finney's case, the recordings were not presented to the original judge until 16 days after the warrant expired. "The State failed to present the recordings 'immediately,' and a 'satisfactory explanation' for the delay is required," the opinion says. "For the purposes of this appeal, we will assume that the unavailability of the judge who originally authorized the interception of Finney's communications is an adequate explanation for the failure to present the recordings for sealing prior to April 11." However, although the State seeks to excuse the additional 12 days it took before presenting the evidence based on the prosecutor's involvement in a death penalty case, "the State has failed to make an evidentiary record sufficient to show this

circumstance as a ‘satisfactory explanation.’” First, the affidavit of the prosecuting attorney in question indicates that her involvement in the investigation of the Finney case was only “peripheral” and two other prosecuting attorneys were involved in the wiretap investigation. The State “has offered *no explanation at all* why the other two prosecuting attorneys then involved with the Finney investigation could not have assisted the investigators in presenting the recordings to the judge,” the opinion says. Furthermore, while the prosecutor in question said she had to prepare for oral arguments in the death penalty case before the Georgia Supreme Court, those arguments were held the morning of April 15. “The State offers *no explanation at all* for why it took an additional eight days to present the recordings for sealing.”

“Upon this record, the trial court erred in accepting the circumstances identified by the State as a ‘satisfactory explanation’ for the delay in presenting the recordings for sealing,” the opinion says. “Judgment reversed.”

Attorneys for Appellant (Finney): Andrew Fleischman, James Bonner, Jr.

Attorneys for Appellee (State): K. David Cook, Jr., District Attorney, Jason Wilbanks, Asst. D.A., Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G.

CLOUGH V. THE STATE (S15A1708)

The Georgia Supreme Court has reversed the malice murder conviction and felony murder conviction of a man who broke into the **Carroll County** home of his mother-in-law, stabbed his estranged wife’s paramour to death, beat his wife, and attacked her mother with a glass snow globe.

In today’s unanimous decision, **Justice Robert Benham** writes for the Court that the Carroll County trial judge erred by refusing to instruct jurors that instead of murder they could consider Duane Clough guilty of the “lesser included” – and less serious – crime of voluntary manslaughter.

At the same time, the high court is upholding another of Clough’s felony murder convictions, which was based on the crime of burglary and therefore did not warrant an instruction on voluntary manslaughter.

According to the facts of the case, Clough, 43, and his wife, Michelle Clough, 33, had been married 15 years and living in Alabama before they separated in early 2009. By October 2009, Michelle was staying at her mother’s home in Bowdon, GA. In the early morning hours of Oct. 16, 2009, Clough drove by his mother-in-law’s house and noticed several vehicles that belonged to Christopher Watkins, 34. Clough got out of his car and began banging on the windows of the house of his mother-in-law, Mary Thomas, 62. It was about 2 a.m. Clough then broke into the house and went into a back bedroom where he found his wife in bed asleep with Watkins. He grabbed Michelle and tossed her around the room. When Watkins tried to intervene, Clough attacked him, stabbing him to death and yelling, “This is what you get for f***ing somebody’s wife.” Clough then severely beat Michelle, hitting her with a chair and cutting her with a knife. Meanwhile, Thomas tried to call police, but when Clough saw her on the phone, he attacked her with a glass snow globe and stabbed her hand with a knife. Clough then fled the scene and went to his mother’s house where law enforcement officers later arrested him.

Following an October 2011 trial, the jury convicted Clough of numerous crimes, including the malice murder of Watkins, felony murder based on the aggravated assault of Watkins, felony murder based on burglary, and the aggravated assault of his wife and mother-in-

law. He was sentenced to life in prison with no possibility of parole for malice murder plus 95 years for his other crimes. After the trial court denied his motion for a new trial, Clough then appealed to the Georgia Supreme Court.

In today's opinion, the high court finds that the evidence at trial "was sufficient to authorize a rational trier of fact to find appellant [i.e. Clough] guilty beyond a reasonable doubt of the crimes for which he was convicted."

However, the Supreme Court is reversing his malice murder conviction and his felony murder conviction that is based on aggravated assault because the judge failed to instruct the jury on voluntary manslaughter. It is sending the case back to the trial court with instructions that it may either retry Clough for malice murder and felony murder (based on aggravated assault), or it may simply resentence him for the felony murder conviction that is based on burglary, as that conviction remains intact.

According to the Georgia statute, a person commits voluntary manslaughter "when he causes the death of another human being under circumstances which would otherwise be murder and if he acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a reasonable person...."

At Clough's trial, the judge said he was refusing the defense attorney's request that he instruct the jury on voluntary manslaughter because he was troubled by the fact that Clough had broken illegally into his mother-in-law's home. He said it was clear to him that Clough "was acting not out of a sudden impulse, but out of revenge. There was no evidence that Clough suffered from 'serious' provocation sufficient to excite deadly passion in a reasonable person when he drove by his estranged wife's mother's home and observed a strange vehicle there."

But in today's opinion, the Supreme Court says the judge was wrong. "As far as the murder of Watkins is concerned, there is slight evidence that appellant acted out of irresistible passion," including what he yelled as he stabbed Watkins, the opinion says. "Evidence of adulterous conduct can be evidence of 'serious' provocation warranting the trial court giving a charge on voluntary manslaughter."

"When there is evidence of alleged provocation, the sufficiency of the provocation is generally for the jury to weigh and decide," not the judge. Here, the judge's only reason for not charging the jury on voluntary manslaughter was because Clough was at his mother-in-law's house where he had no right to be. But the judge's reasoning "is an overreach," the opinion says, and is "essentially a decision about the sufficiency of the provocation, rather than a decision about whether there is any evidence of voluntary manslaughter. Again, the sufficiency of the provocation is an issue for the jury. Under the circumstances of this case, the trial court should have given the charge as requested and its failure to do so constituted reversible error.

Accordingly, appellant's conviction and sentence for malice murder is reversed," the opinion says. And "because of the failure to give the charge on voluntary manslaughter, appellant's conviction for felony murder, [based on the] aggravated assault of Watkins, is also reversed."

"Upon remand, the State may retry appellant for malice murder and felony murder (aggravated assault of Watkins) or it may, instead, have the trial court sentence appellant for felony murder [based on] burglary. The guilty verdicts on the other counts, which are also unaffected by a charge on voluntary manslaughter, are affirmed."

Attorneys for Appellant (Clough): Maryellen Simmons and John Overocker of the Coweta Judicial Circuit Public Defenders Office

Attorneys for Appellee (State): Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Matthew Youn, Asst. A.G.

BROOKS V. THE STATE (S15A1480)

In another reversal of a murder conviction, the Georgia Supreme Court has reversed the conviction of a man who in 1976 shot and killed a security guard during an armed robbery at a **DeKalb County** meat packing plant.

In today's unanimous decision, **Chief Justice Hugh Thompson** writes that during the man's trial for a murder that for decades was considered a cold case, the judge erred by allowing the State to introduce evidence that in 1983, the man had also shot and killed a Mississippi state trooper after he and an accomplice were pulled over for a traffic violation.

According to the evidence at trial, on March 21, 1976, Fred Dalton Brooks and Harold David Edgens went to the Hormel Plant on Montreal Boulevard in DeKalb County where they had briefly worked in 1970. They posed as employees so that the security guard, James Earl Carter, would allow them entry to the plant. When Carter later witnessed the men trying to break into the coin and vending machines using a welding torch and iron bar, he told them they were headed to jail. Brooks and Edgens then forced Carter into the employees' locker room where they bound him with two leather belts and a long-sleeved shirt, and shot him seven times in the back as he lay face down on the floor. DeKalb County police detectives found Carter's body between two benches in the locker room and discovered that Carter's wallet, keys, Sears credit card, and driver's license were all missing. No arrests were made and the case went cold in 1977.

Seven years after Carter's murder, Brooks escaped from a Georgia county jail and fled to Mississippi where he and another man murdered the state trooper who pulled them over. Brooks pleaded guilty to the Mississippi murder and was sentenced to life in prison, but he was transferred back to Georgia to serve out existing sentences. For the last 40 years, Brooks, now about 68, has spent most of his life in prison. In February 2012, while incarcerated at the Georgia Diagnostic and Classification Prison in Jackson, GA, Brooks confessed to a deputy warden that he and Edgens had killed Carter 36 years earlier. He provided enough details about the murder that after researching the county's cold cases, DeKalb County detectives became convinced that Brooks had been involved in Carter's murder. Latent fingerprints that had been lifted from the acetylene torch used to open the vending machines also matched a print belonging to Brooks.

At his November 2013 trial, however, Brooks recanted, testifying that he had not been involved in Carter's murder but that Edgens had described to him in detail how he had killed the guard. Brooks testified that he had falsely confessed to the murder hoping to return to Mississippi so he could serve the remainder of his sentence under better conditions. Prior to trial, State prosecutors filed a request to introduce evidence of other crimes committed by Brooks. Specifically, they asked to introduce his conviction from Franklin County, Mississippi for the murder of State Trooper Danny Nash. The State said it wanted to introduce such evidence, which used to be called "similar transaction evidence" but is today called "other acts evidence," to prove "identity, motive, and course of conduct." The trial judge allowed in the evidence, and on Nov. 8, 2013, a jury convicted Brooks of Carter's murder, aggravated assault, and armed robbery, and he was sentenced to life in prison. Brooks then appealed to the state Supreme Court.

In today's opinion, the high court rules that "we have examined the evidence and find it sufficient to enable any rational trier of fact to find appellant [i.e. Brooks] guilty beyond a reasonable doubt of the crimes with which he was charged."

However, under Georgia's new Evidence Code, the Supreme Court finds that the trial court made a legal error in allowing in the "other acts evidence" of Brooks' conviction for the state trooper's murder. "We find the trial court erred in admitting the other acts evidence and reverse appellant's conviction," the opinion says.

Under the state's new Evidence Code (Georgia Code § 24-4-404 (b)), although evidence of "other acts" is inadmissible to show an accused person's propensity to commit a crime, it may be "admissible for other purposes, including but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." To determine whether such evidence is admissible under the new Code, the State must meet a three-part test: 1) the evidence needs to be relevant to some issue other than the defendant's bad character; 2) the value of the evidence toward proving guilt cannot be outweighed by its unfair damage to the defendant's legal rights; and 3) there must be sufficient proof to enable the jury to find that the accused committed the other acts. In Brooks' case, the State met the third part of the test because Brooks admitted to killing the trooper.

Under federal case law, "evidence offered to prove identity must satisfy a particularly stringent analysis," the opinion says. "The extrinsic act must be a 'signature' crime, and the defendant must have used a modus operandi that is uniquely his... Evidence cannot be used to prove identity simply because the defendant has at other times committed the same commonplace variety of criminal act."

"Following these principles, we conclude that, although the Mississippi murder and the murder of Carter bore some similarities, evidence of the Mississippi murder was not admissible to prove identity because the crimes were not so similar as to mark the murders as the handiwork of appellant. On the contrary, the modus operandi for each murder was relatively commonplace – these were not signature crimes."

The evidence of the Mississippi murder also "was not admissible for the purpose of showing motive," the opinion says. "Simply put, evidence of the 1983 murder of a Mississippi state trooper during a prison escape is unrelated and unnecessary to prove why appellant murdered a security guard in the course of a theft seven years earlier."

Finally, "course of conduct," which was "formerly part of our law of evidence," has been eliminated from the new Evidence Code. "It was error for the trial court to admit evidence of the Mississippi murder to show course of conduct," the opinion says.

"Having determined the trial court abused its discretion in admitting other acts evidence to prove identity, motive and course of conduct, we must now determine whether the error was harmless." In today's decision, the Supreme Court has determined it was not harmless. "Here, while the evidence of appellant's guilt was sufficient to convict, it was not overwhelming. At the same time, we have no doubt that evidence of the murder of a state trooper was extremely prejudicial in the eyes of the jury."

Because it is possible that evidence of the trooper's murder contributed to Brooks' conviction in Carter's murder, his conviction must be reversed, the opinion says. It is up to the District Attorney to decide whether to retry Brooks for Carter's murder.

Attorney for Appellant (Brooks): Leah Davis Madden

Attorneys for Appellee (State): Robert James, District Attorney, Lenny Krick, Asst. D.A., Gerald Mason, Asst. D.A., Shannon Hodder, Asst. D.A., Samuel Olens, Attorney General, Beth Burton, Dep. A.G., Paula Smith, Sr. Asst. A.G., Scott Teague, Asst. A.G.

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

- * Deuntaie Amos (Fulton Co.) **AMOS V. THE STATE (S15A1580)**
- * Stewart Colvert Brannon (Houston Co.) **BRANNON V. THE STATE (S15A1724)**
(The Supreme Court has upheld Brannon’s convictions for murder, armed robbery and other crimes, but is sending the case back to the trial court to correct errors the judge made in merging certain counts for judgment and sentencing.)
- * Antwuan Crayton (DeKalb Co.) **CRAYTON V. THE STATE (S15A1506)**
- * Jerry Downey (Tattnall Co.) **DOWNEY V. THE STATE (S15A1681)**
- * Marcus Ford (Fulton Co.) **FORD V. THE STATE (S15A1626)**
(The Supreme Court has upheld Ford’s murder convictions and two consecutive life prison sentences, but it is sending the case back to the trial court to fix sentencing. The trial court erred in sentencing Ford for two aggravated assaults as those crimes should have been merged into the malice murder counts. On remand, the two 20-year sentences for aggravated assault must therefore be thrown out.)
- * Demarcus Graves (Fulton Co.) **GRAVES V. THE STATE (S15A1357)**
(The Supreme Court has upheld Graves’ murder conviction and life prison sentence, but again because of a merger error by the judge, the high court is sending the case back to the trial court to impose sentences for two independent felonies.)
- * Larry Harris (Camden Co.) **HARRIS V. THE STATE (S15A1699)**
- * Willie Moss (Chatham Co.) **MOSS V. THE STATE (S15A1736)**
- * Marian Papacsi Owens (Screven Co.) **OWENS V. THE STATE (S16A0058)**