

Prosecuting Attorneys' Council of Georgia

CaseLaw UPDATE

WEEK ENDING JANUARY 4, 2008

Legal Services Staff Attorneys

David Fowler
Deputy Executive Director
for Legal Services

Tom Hayes
Regional Offices Director

Chuck Olson
General Counsel

Joe Burford
Trial Services Director

Lalaine Briones
Trial Support

Laura Murphree
Capital Litigation

Fay McCormack
Traffic Safety Coordinator

Patricia Hull
Traffic Safety Prosecutor

Gary Bergman
Staff Attorney

Tony Lee Hing
Staff Attorney

Rick Thomas
Staff Attorney

Donna Sims
Staff Attorney

Jill Banks
Staff Attorney

Al Martinez
Staff Attorney

Clara Buccì
Staff Attorney

Brad Rigby
Staff Attorney

THIS WEEK:

- Evidence
- Search and Seizure

Evidence

Gooch v. State, A07A2021 (12/20/07)

Appellant was convicted of criminal damage to property in the first degree. The record shows that during an argument with appellant's ex-wife, he threw a burning bed sheet on the floor requiring the ex-wife to jump over it in order to escape. On appeal, appellant contends that he cannot be convicted of criminal damage to property, O.C.G.A. § 16-7-23 (a) (1), because the sheet was joint marital property. The Court of Appeals found no merit in appellant's argument. A person commits criminal damage to property in the first degree when he "interferes with *any* property in a manner so as to endanger human life." Marital or family property partially owned by another is sufficient to establish the commission of an offense under O.C.G.A. § 16-7-23 (a) (1). The State need only show that a person other than the defendant has a legal right to possess or own the property.

Search and Seizure

Thompson v. State, A07A2038 (12/14/07)

An officer randomly checked appellant's vehicle license plate number and discovered that it was registered to another vehicle. As a result, the officer stopped the appellant for displaying an improper tag and asked him for identification. Appellant stated that he had no identification. The officer had appellant get out

of the car, patted him down for weapons and arrested him for driving without a license. In a search incident to arrest, the officer found a bag containing pills and a marijuana joint in appellant's pocket. The officer also found an identification card which prompted the appellant to admit that his license had been suspended. Appellant filed a motion to suppress the evidence found on his person on the basis that the stop was illegal because the officer was not authorized to stop him for displaying an improper tag. The trial court denied the motion, and the Court of Appeals affirmed. A traffic stop is reasonable where the officer has probable cause to believe that a traffic violation has occurred. Here, the officer stopped the appellant for displaying a license plate issued to another vehicle, which is a violation of O.C.G.A. § 40-2-6. Therefore, the stop was valid and appellant's argument was without merit.