



CaseLaw

Update

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DPD Director

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Tony Lee Hing
Staff Attorney

Rick Thomas
Staff Attorney

Donna Sims
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Al Martinez
Staff Attorney

Troy Golden
Staff Attorney

Clara Bucci
Staff Attorney

CaseLaw This Week

Week Ending August 13, 2004

- **Evidence**

Evidence – Statement

Smith v. State, A04A1184 (07/26/04), 04 FCDR 2627, 2004 Ga. App. LEXIS 1007

Defendant's convictions for armed robbery and kidnapping with bodily injury were affirmed. The trial court did not err in admitting defendant's statement made after defendant initiated further discussions with police, even though defendant had previously invoked his right to counsel during police interrogation. **The detective's question, "Are you okay?" to the defendant in the men's room following defendant's invocation of his right to counsel, did not constitute interrogation under *Miranda*.** The Court found that defendant took the opportunity in the men's room to tell the detective the conditions under which he would speak with the police about what happened, and thereafter explicitly waived his right to counsel after being asked repeatedly by the detectives if he was sure he wanted to make a statement.

Evidence – Similar Transaction

Kingsley v. State, A04A1323 (07/26/04), 04 FCDR 2638, 2004 Ga. App. LEXIS 1009

Defendant's convictions for aggravated child molestation, aggravated sexual battery, and three counts of child molestation were affirmed. **The trial court did not err in admitting evidence of a similar transaction involving an adult woman. The state introduced the evidence to show course of conduct, bent of mind, lustful disposition and to corroborate the victim's testimony.** The Court found that the two acts of oral sodomy were sufficiently similar, the only difference being that the victim in the instant case was 11 years old and the similar transaction victim was an adult.