



CaseLaw Update

Prosecuting Attorneys' Council of Georgia

Legal Services Staff

David Fowler
Deputy Executive Director
for Legal Services

Chuck Olson
General Counsel

Joe Burford
Trial Services Director

Fay McCormack
Traffic Safety Coordinator

Patricia Hull
Traffic Safety Prosecutor

Tom Hayes
DPD Director

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

Troy Golden
Staff Attorney

Clara Bucci
Staff Attorney

CaseLaw This Week

Week Ending March 25, 2005

• Jury Charges

• Evidence

Jury Charges – Mental Retardation

Perkinson v. State, S04P1845 (03/14/05), 05 FCDR 754, 2005 Ga. LEXIS 168.

Defendant was convicted of malice murder and felony murder. At trial, the defendant introduced evidence alleging he was mentally retarded. As a result, the judge read the pattern jury charge on mental retardation which adds the language “at the time of the commission of the offense” to the statutory language. The court held that this language was improper and cautioned courts that the improper language should not be included in future charges. The error was not reversible. Judgment affirmed.

Evidence – Videotape

Perkinson v. State, S04P1845 (03/14/05), 05 FCDR 754, 2005 Ga. LEXIS 168.

Defendant was convicted of malice murder and felony murder. During the penalty phase, the State was allowed to introduce a videotape into evidence that depicted the parking lot where the victim was forced into the trunk of his car, the inside of the trunk of the car, and the secluded road where the murder occurred. The stated

intent of the video was to depict the crime from the perspective of the victim. On appeal, the defendant alleged the admission of this tape was error. The Court held that **the introduction of this videotape was unauthorized because it depicted a simple event already adequately represented by testimony and for which the portrayal added nothing to the existing mental image already created. However, the error was harmless in this case.** Judgment affirmed.