

# VAWA CaseLaw Update

**VOLUME 1; ISSUE 2**  
**April-June 2020**

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### **Service Dog; Courtroom Closures**

*Jones v. State, 354 Ga. App. 568 (2020)*

The Court of Appeals approved the trial court allowing a victim's use of a service dog while testifying. Prior to allowing the animal in the courtroom, the court held a hearing outside the jury's presence regarding the witness' condition, the need for the service animal, and the service animal's training. Counsel also minimized the dog's presence and visibility to the jury during the testimony. During the trial, a victim's advocate attempted to restrict access to the courtroom while the victim testified. The trial court admonished the advocate that it is inappropriate to restrict access to the courtroom without first bringing the issue up before the trial court and counsel. The Court reviewed the advocate's actions and did not find that the advocate committed a constitutional violation.

### **Spousal Privilege**

*Morgan v. State, 354 Ga. App. 754 (2020)*

Spousal privilege would have prohibited the defendant's spouse from being compelled to testify about prior acts of violence in 2003 and 2004 before they were married in 2006. The husband could have invoked his privilege not to testify at the defendant's 2014 trial of the murder, which happened during their marriage.

### **Body Cameras; Relevance**

*Robinson v. State, S20A0265 (4/20/2020)*

Body camera footage depicting the emotional turmoil of a murder victim's five-year-old daughter and seven-year-old son at the crime scene was improperly admitted by the trial court. The Court held that the highly prejudicial nature of the footage did not have sufficient probative value to overcome any unfair prejudice.

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## **Excited Utterance**

*Sullivan v. State, S20A0309 (5/18/2020)*

At a trial for vehicular homicide and aggravated assault, the trial court properly admitted a spontaneous statement made by a child to a nurse who treated the child for injuries related to a car crash. The statement was admitted under the excited utterance hearsay exception to the rule against hearsay because the child, who witnessed his mother cause the crash, was still under the excitement of the event when making the statement.

## **Rape Shield**

*Chisolm v. State A20A031 (April 24, 2020)*

The trial court properly declared a mistrial when the defense cross-examined a rape victim regarding her virginity, a violation of the Rape Shield Statute. Because her past sexual behavior, if any, did not involve the defendant. It was therefore not admissible for any other purpose, including impeachment, credibility, or evidence of motive and state of mind of both the victim and defendant.

## **Rule of Sequestration; Other Acts**

*Thompson v. State, S20A0245 June 1, 2020*

Evidence that murder defendant also beat and strangled his stepchildren was properly admitted under Rule 404(b) to prove that defendant acted with intent to commit the crimes of murder and aggravated assault against his wife. The Court also approved the trial court's exempting the victim's adult children from the rule of sequestration, applying O.C.G.A. § 24-6-616 and O.C.G.A. § 17-17-9, finding that they met the statutory definition of a victim as defined in the Crime Victim's Bill of Rights.