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Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2025 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through May 12, 2025. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through May 12, 2025.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice Forms Annotated.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

In Volume 41A, an updated version of Table Fifteen reflects legislation through the 2025 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2025 supplement pamphlets and in the bound volumes of the Code.

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TITLE 24
EVIDENCE
VOLUME 20

Chap.

5. Privileges, 24-5-501 through 24-5-511.

VOLUME 20A

8. Hearsay, 24-8-801 through 24-8-827.

12. Medical and Other Confidential Information, 24-12-1 through 24-12-31.

CHAPTER 8

HEARSAY

Article 2

Admissions and Confessions

capacitated persons age 17 or older.

Sec.

24-8-827. Statements of mentally in-

ARTICLE 1

GENERAL PROVISIONS

24-8-801. Definitions.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

ADMISSIONS AND CONFESSIONS

3. ACQUIESCENCE OR SILENCE AS ADMISSION

d. ILLUSTRATIONS AND APPLICATIONS

DECLARATIONS OF CONSPIRATORS

2. APPLICATION

INADMISSIBLE HEARSAY

General Consideration

Evidence not offered to prove truth of matter asserted.

Trial counsel was not ineffective for

failing to object to alleged hearsay statements because statements a co-conspirator made were not offered to prove the truth of the matter asserted and therefore

General Consideration (Cont'd)

were not hearsay, and the statements were cumulative of other evidence. In addition, defendant's statements to the co-conspirator made during a phone call on the night of the shooting were admissible against him at trial, and therefore any objection would have been meritless. *Clements v. State*, 317 Ga. 772, 896 S.E.2d 549, 2023 Ga. LEXIS 255 (2023).

Admissions and Confessions**3. Acquiescence or Silence as Admission****d. Illustrations and Applications**

Statement admissible as adoptive admission. — Trial court did not plainly err by permitting defendant's accomplice to testify to statements made by another person that implicated defendant in the victim's murder because the statements were admissible as adoptive admissions, as by failing to respond, the defendant adopted the person's statement that defendant had "fired a shot" at the victim during a burglary. *Render v. State*, 320 Ga. 890, 912 S.E.2d 679, 2025 Ga. LEXIS 38 (2025).

Declarations of Conspirators**2. Application****Declarations of coconspirator admissible.**

Out-of-court statements of codefendant's associate were properly admitted under the hearsay exception for state-

ments in furtherance of a conspiracy because the evidence was sufficient to establish that the codefendant and the associate conspired to commit the murders and to participate in a criminal street gang. *Henderson v. State*, 317 Ga. 66, 891 S.E.2d 884, 2023 Ga. LEXIS 179 (2023).

Plain error did not occur admitting codefendant 2's pre-trial statements to another as a co-conspirator as the jury was specifically instructed that the statements could only be considered against codefendant 2, and there was no evidence that the interval between the testimony and the trial court's final instructions impermissibly allowed the jury to use the evidence for any improper purpose or that the jury ignored the instruction in deciding codefendant 1's guilt or innocence. *Kirkland v. State*, 318 Ga. 639, 898 S.E.2d 536, 2024 Ga. LEXIS 39 (2024).

Inadmissible Hearsay

Statement victim's mother made on 911 call. — Defendant's conviction of rape and furnishing alcohol to a minor was upheld because the trial court did not err by excluding a statement the victim's mother made on the call to 911 and a statement included in a police report as the 911 call was hearsay and not a prior inconsistent statement contradicting the mother's or victim's testimony and the defendant never proffered the excluded police report at trial so the evidentiary ruling excluding the report was presumed correct. *Martinez-Gaspar v. State*, 375 Ga. App. 189, 915 S.E.2d 79, 2025 Ga. App. LEXIS 156 (2025).

24-8-803. Hearsay rule exceptions; availability of declarant immaterial.**Law reviews.**

For article, "Crimes of Suspicion," see 72 *Emory L.J.* 1429 (2023).

JUDICIAL DECISIONS**ANALYSIS**

RES GESTAE; PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE

3. SPONTANEITY

6. APPLICATION AND EXAMPLES

d. BYSTANDERS

f. CRIMINAL LAW — DEFENDANTS
STATEMENTS FOR MEDICAL DIAGNOSIS/TREATMENT
BUSINESS RECORDS

2. PROCEDURAL CONSIDERATIONS

a. FOUNDATION FOR ADMISSION

3. APPLICATIONS AND ILLUSTRATIONS
RECORDED RECOLLECTIONS

1. IN GENERAL

Res Gestae; Present Sense Impression and Excited Utterance

3. Spontaneity

Excited utterance standard not met. — Trial court did not err excluding the portion of the body camera recording that showed the sheriff deputy's interview of the grandmother as inadmissible hearsay as the grandmother's statements were not about the deputy's arrival or presence at the home; rather, the statements related to the grandmother's past experience and interactions with the victim of child molestation, thus, the statements did not fit within the definition of an excited utterance nor a present sense impression. *Brantley v. State*, 370 Ga. App. 757, 899 S.E.2d 284, 2024 Ga. App. LEXIS 84 (2024).

6. Application and Examples

d. Bystanders

Admission of victim's co-workers statements. — Any error in admitting out-of-court statements the victim made to co-workers was harmless because defendant was the only other person present at the time of the shooting and the state presented evidence to disprove the defendant's theory that the victim died by suicide. *Pounds v. State*, 320 Ga. 288, 908 S.E.2d 631, 2024 Ga. LEXIS 273 (2024).

Statement of witness to murder properly admitted.

Trial court did not abuse its discretion by admitting as an excited utterance hearsay testimony because the declarant could not have made the statement more than 20 minutes after the shooting and the witness testified that the declarant was wide-eyed and breathing heavily when the declarant entered the apartment. *Blocker v. State*, 316 Ga. 568, 889 S.E.2d 824, 2023 Ga. LEXIS 133 (2023).

f. Criminal Law — Defendants

Text messages admissible to show intent, plan, and design. — Text messages between the confidential informant and the defendant in which they arranged the drug deal were admissible to show the defendant's then-existing state of mind because the messages were relevant and admissible to show the defendant's intent, plan, and design for the sale and delivery of the methamphetamine to the informant and as circumstantial evidence that the planned action actually took place. *Ashley v. State*, 374 Ga. App. 153, 911 S.E.2d 701, 2025 Ga. App. LEXIS 16 (2025).

Statements for Medical Diagnosis/Treatment

Testimony held not within rule.

Trial court did not err by not allowing defendant to tell the jury that he suffered from post-traumatic stress disorder (PTSD) and instead allowing him only to describe his symptoms because the hearsay exception for out-of-court statements made for purposes of medical diagnosis or treatment did not apply to medical diagnoses. *Smith v. State*, 318 Ga. 868, 901 S.E.2d 158, 2024 Ga. LEXIS 101 (2024).

Business Records

2. Procedural Considerations

a. Foundation for Admission

Proper foundation found.

Superior court did not abuse the court's discretion in determining that the records attached to a records custodian's affidavit were admissible under the business records exception because the witness testified that: (1) the witness had personal knowledge of the appellee's records as records custodian for its accounts; (2) the attached records were made at or near the time of the transactions reflected therein

Business Records (Cont'd)**2. Procedural****Considerations** (Cont'd)**a. Foundation for Admission** (Cont'd)

and were kept in the course of a regularly conducted business activity; and (3) the record-keeping system included the appellant's account. *Clark v. Jefferson Capital Systems, LLC*, 374 Ga. App. 167, 911 S.E.2d 713, 2025 Ga. App. LEXIS 17 (2025).

Proper foundation not laid.

State failed to meet the state's burden of proving that the refusal form evidence fell under the business record exception to hearsay when there was no testimony or other evidence presented that the state's sole witness was employed by, associated with, or familiar with the internal procedures of the Coastal Residential Substance Abuse Treatment program. *Grigg v. State*, 372 Ga. App. 96, 903 S.E.2d 787, 2024 Ga. App. LEXIS 259 (2024).

3. Applications and Illustrations

Restoration cost estimate. — Trial court did not err by admitting the restoration cost estimate because the estimate was admissible under the business record

exception to the hearsay rule, O.C.G.A. § 24-8-803(6), as the senior vice president of the landlord's owner's construction department testified she received the estimate, it was the type of document she received in the regular course of business in her role, and it was the type of document regularly incorporated into and maintained in their business records. *Preview Rests., LLC v. Shops at 2221 Peachtree, LLC*, 371 Ga. App. 862, 903 S.E.2d 320, 2024 Ga. App. LEXIS 232 (2024).

Recorded Recollections**1. In General**

Allegation that memory better during recorded recollection. — With regard to appellant's conviction for malice murder, the trial court did not commit plain error in admitting a witness's recorded recollection because appellant did not point to any precedent imposing a requirement that the witness testify in the absolute affirmative that their memory was better when the recorded recollection was made. *Madera v. State*, 318 Ga. 593, 899 S.E.2d 132, 2024 Ga. LEXIS 57 (2024).

24-8-804. Hearsay rule exceptions; declarant unavailable.**JUDICIAL DECISIONS****ANALYSIS****FORMER TESTIMONY****1. DECEASED WITNESSES****DECEASED PERSONS****2. DECLARATIONS****d. IDENTITY OF ASSAILANT****Former Testimony****1. Deceased Witnesses**

Deceased witness's testimony from previous trial admissible. — Trial court did not abuse the court's discretion by admitting the deceased witness's prior testimony because defendant had an adequate opportunity and similar motive to develop the witness's testimony at his first

trial, defendant's original trial counsel meaningfully cross-examined the witness, the same charges were litigated in both trials, the state's theory that defendant was a party to the crimes remained consistent, and the state's reason for introducing the witness's testimony was the same. *Kennebrew v. State*, 317 Ga. 324, 893 S.E.2d 96, 2023 Ga. LEXIS 199 (2023).

Deceased Persons

2. Declarations

d. Identity of Assailant

Condition grave and victim believed death imminent. — Trial court erred by admitting as dying declarations the victim's statements identifying the defendant as the shooter because the state presented significant evidence to support

the inference that the victim believed death to be imminent, including testimony that the victim remained in intensive care when the statement was made, was paralyzed beyond the ability to slightly move the victim's head and facial features, was entirely dependent on a ventilator, and was aware of the grievous condition. *Leonard v. State*, 316 Ga. 827, 889 S.E.2d 837, 2023 Ga. LEXIS 132 (2023).

24-8-807. Residual exception.

JUDICIAL DECISIONS

ANALYSIS

OTHER EXCEPTIONS APPLICATION

Other Exceptions

Journal entries admissible. — Trial court did not abuse the court's discretion by admitting evidence of the victim's journal entries because the entries detailed the victim's volatile relationship with defendant, there was no evidence she had a motive to fabricate her statements when she wrote them, and the entries depiction of their relationship was consistent with other testimony. *Shellman v. State*, 318 Ga. 71, 897 S.E.2d 355, 2024 Ga. LEXIS 7 (2024).

Requirement of trustworthiness satisfied.

Trial court did not abuse the court's discretion in admitting excerpts from the victim's diary under the residual hearsay exception because the statements bore circumstantial guarantees of trustworthiness, were material, more probative than other evidence, and served the interests of justice. *Watkins v. State*, 320 Ga. 862, 912 S.E.2d 574, 2025 Ga. LEXIS 32 (2025).

Application

Statements to family member and close friend admissible. — Trial court did not err in admitting testimony about the victim's statements to the two witnesses regarding defendant because the record showed that the victim made the statements to the victim's brother, with

whom the victim had a close relationship, and to a good friend whom the victim had known since childhood. Moreover, nothing indicated that the victim had any motive to fabricate the statements. *Siders v. State*, 320 Ga. 367, 907 S.E.2d 645, 2024 Ga. LEXIS 237 (2024).

Victim's journals admissible. — Trial court did not err by admitting the victim's journals into evidence because the journals were material and probative since the journals offered firsthand details in the victim's own words about the nature of the victim's relationship with the defendant, including descriptions of the defendant's pattern of abuse and jealousy. *Little v. State*, 372 Ga. App. 836, 906 S.E.2d 899, 2024 Ga. App. LEXIS 370 (2024).

Text messages admissible. — Trial court did not err by admitting certain text messages exchanged between the two victims because the statements in the texts provided information regarding the state of defendant's relationship with the deceased victim just prior to the victim's death. The information was evidence of the relationship, a material fact, was more probative on that point than any other evidence which could reasonably be procured since the victim was deceased, and admission of the evidence, which gave context to the alleged crimes, served the purposes of the rules of evidence and the

Application (Cont'd)

interests of justice. *Hall v. State*, 371 Ga. App. 606, 901 S.E.2d 743, 2024 Ga. App. LEXIS 189 (2024).

Hearsay evidence from sister was reliable. — Trial court did not err by admitting into evidence the victim's hearsay statements through his sister's testimony because the record showed that he

had a close relationship with his sister, there was no evidence presented indicating that he had any motive to fabricate his statements, and his statements were corroborated by his friend's testimony that the victim had recently purchased a television. *Kennebrew v. State*, 317 Ga. 324, 893 S.E.2d 96, 2023 Ga. LEXIS 199 (2023).

ARTICLE 2

ADMISSIONS AND CONFESSIONS

24-8-823. Admissions and confessions received with care; no conviction on uncorroborated confession.

JUDICIAL DECISIONS

ANALYSIS

CORROBORATION

Corroboration**Sufficiency of corroboration.**

Even if trial counsel performed deficiently by failing to request a jury instruction on confession corroboration, defendant failed to show prejudice because

there was ample evidence to corroborate defendant's statement, including eyewitnesses to the shooting and that defendant was in possession of the murder weapon. *Davis v. State*, 316 Ga. 418, 888 S.E.2d 546, 2023 Ga. LEXIS 119 (2023).

24-8-824. Only voluntary confessions admissible.

JUDICIAL DECISIONS

ANALYSIS

VOLUNTARINESS

Voluntariness**No deceit or hope of benefit.**

Trial court erred by concluding that law enforcement officers made statements during defendant's interview that offered a hope of a benefit because the state-

ments, considered in context, were exhortations for defendant to tell the truth and emphasize that officers knew he did not fire the fatal shot. *State v. Leverette*, 320 Ga. 806, 912 S.E.2d 533, 2025 Ga. LEXIS 29 (2025).

RESEARCH REFERENCES

ALR.

Sleep Deprivation as Effecting Volun-

tariness of Confession, 89 A.L.R. Fed. 3d Art. 4.

24-8-827. Statements of mentally incapacitated persons age 17 or older.

(a) As used in this Code section, the term “mentally incapacitated” means a mental impairment that substantially affects a person’s ability to provide personal protection; provide necessities, including, but not limited to, food, shelter, clothing, medical, or other healthcare; carry out the activities of daily living; or manage his or her resources.

(b) A statement made by a person who is 17 years of age or older who is mentally incapacitated that describes any act of nonconsensual sexual contact or any act of physical abuse performed with or on such mentally incapacitated person by another, or with or on another in the presence of such mentally incapacitated person, shall be admissible in evidence by the testimony of the person to whom such statement was made if the proponent of such statement provides pretrial notice to the adverse party of the intention to use such out-of-court statement and if such mentally incapacitated person testifies at the trial, unless the adverse party forfeits or waives such person’s testimony as provided in this title, and, at the time of the testimony regarding such out-of-court statement, the person to whom the mentally incapacitated person made such statement is subject to cross-examination regarding the out-of-court statement.

History.

Code 1981, § 24-8-827, enacted by Ga. L. 2024, p. 399, § 1/HB 218, effective July 1, 2024.

Cross references.

Aggravated sexual battery and consent, § 16-6-22.2.

Effective date.

This Code section became effective July 1, 2024.

CHAPTER 9**AUTHENTICATION AND IDENTIFICATION****ARTICLE 1****GENERAL PROVISIONS****24-9-901. Requirement of authentication or identification.****JUDICIAL DECISIONS****ANALYSIS**

PROOF OF AUTHENTICITY OF WRITING
SOURCE OF KNOWLEDGE OF WITNESSES

AUTHENTICATION BY EXPERT WITNESSES
AUTHENTICATION BY NONEXPERT WITNESSES

Proof of Authenticity of Writing

Authentication of nude photos. — With regard to defendant's convictions for child molestation, nude photos found on defendant's laptop of female body parts were sufficiently authenticated based on the victim's testimony that the victim took the nude photographs at defendant's request. *Brantley v. State*, 370 Ga. App. 757, 899 S.E.2d 284, 2024 Ga. App. LEXIS 84 (2024).

Authentication sufficient. — Trial court did not plainly err by admitting into evidence letters that defendant purportedly sent from jail because the jail supervisor testified that she was familiar with defendant's handwriting and the letters instructed the recipient on how to coach the victim to testify in his favor. *Rutherford v. State*, 370 Ga. App. 873, 899 S.E.2d 457, 2024 Ga. App. LEXIS 103 (2024).

Source of Knowledge of Witnesses

Home surveillance video with inaccurate time stamp did not make video inadmissible. — With regard to the defendant's conviction for malice murder and other crimes, the trial court did not abuse the court's discretion by allowing a witness to identify the defendant in the surveillance video and screenshot because the witness's identification was helpful given the poor quality of the images and the witness's personal knowledge of the events and the surveillance video and screenshots were properly authenticated, even though the time stamp on the video was inaccurate. *Mitchell v. State*, 320 Ga. 673, 911 S.E.2d 607, 2025 Ga. LEXIS 7 (2025).

Authentication by Expert Witnesses

Authentication of stolen property. — Trial counsel was not ineffective for failing to object to the admission of the cell phone and an electronic music-storing device for lack of proper foundation because the officer testified that they were the same items she and a witness found on the night of the burglary before they were admitted into evidence. *Johnson v. State*, 369 Ga. App. 414, 893 S.E.2d 792, 2023 Ga. App. LEXIS 465 (2023).

Authentication of social media photo by police officer. — Trial counsel was not ineffective for failing to object to the admission of a photo from the defendant's social media page because the photo was authenticated and, therefore, any objection would have been futile. An officer testified that the photo was the same picture she found on defendant's social media page and that the picture was a fair and accurate description of what she found on her computer. *Johnson v. State*, 369 Ga. App. 414, 893 S.E.2d 792, 2023 Ga. App. LEXIS 465 (2023).

Authentication by Nonexpert Witnesses

Authentication of photos by police officer. — Trial court did not err in introducing, over a valid objection, the victim's photographs of defendant's cell phone without a proper foundation because a police officer testified that the victim provided a statement in which she described taking photographs of defendant's phone and that defendant's phone contained recordings depicting the victim's nude body which sufficiently authenticated the photos. *Rogers v. State*, 369 Ga. App. 543, 894 S.E.2d 85, 2023 Ga. App. LEXIS 486 (2023).

24-9-902. Self-authentication.

JUDICIAL DECISIONS

ANALYSIS

TREATMENT OF SPECIFIC RECORDS

1. IN GENERAL

Treatment of Specific Records**1. In General**

Cumulative cell phone documents admissible. — Defendant's claim that trial counsel was ineffective for failing to object to the introduction of the defendant's cell phone records because the affi-

davit attached to the records did not meet the standard for self-authenticating business records because the defendant's cell phone records were cumulative of the other cell phone records and Google documents properly admitted into evidence. *Rakestraw v. State*, 373 Ga. App. 77, 907 S.E.2d 361, 2024 Ga. App. LEXIS 389 (2024).

ARTICLE 2**SPECIFIC TYPES OF RECORDS AND EVIDENCE****24-9-921. Identification of medical bills; expert witness unnecessary.****JUDICIAL DECISIONS****Admission of medical bills.**

Defendant did not identify any authority in support of the contention that the document submitted as an exhibit, which listed the patient's name and address, the program name, and the amount owed, did not qualify as a medical bill. *Arnold v. Liggins*, 368 Ga. App. 544, 890 S.E.2d 446, 2023 Ga. App. LEXIS 349 (2023).

Trial court did not err by instructing the

jury that plaintiff could identify his medical bills, that such bills did not have to be identified by the medical provider, and that it was not necessary for an expert witness to testify that the charges were necessary and reasonable because it was a correct statement of the law. *Sandler v. Coger*, 373 Ga. App. 373, 908 S.E.2d 399, 2024 Ga. App. LEXIS 445 (2024).

24-9-923. Admissibility of photographs, motion pictures, video recordings, and audio recordings when witness unavailable.**JUDICIAL DECISIONS****ANALYSIS**

AUDIOTAPES
VIDEOTAPES

Audiotapes**Proper foundation for admission of automated recording.**

Trial court did not abuse its discretion by admitting recordings of the defendant's jail phone calls where an employee of the sheriff's office testified as to the process used when inmate's use the phone system and the trial court was authorized to determine by a preponderance of the evidence that the recordings tended to reliably show that they were the contents of

the calls that defendant placed. *Blash v. State*, 318 Ga. 325, 898 S.E.2d 522, 2024 Ga. LEXIS 41 (2024).

Videotapes**Evidence sufficient to authenticate videotape.**

In an action for aggravated assault and armed robbery, the trial court did not err in overruling the defendant's objections and admitting the store surveillance videotape where the victim, who was familiar

Videotapes (Cont'd)

with the video system and retrieved the recording as part of the victim's work, testified that the surveillance videotape accurately portrayed the events the victim witnessed and that the recording had not been altered in any fashion. *Thompson v. State*, 372 Ga. App. 335, 904 S.E.2d 409, 2024 Ga. App. LEXIS 303 (2024).

With regard to the defendant's conviction for malice murder and other crimes,

the trial court did not abuse the court's discretion by allowing a witness to identify the defendant in the surveillance video and screenshot because the witness's identification was helpful given the poor quality of the images and the witness's personal knowledge of the events and the surveillance video and screenshots were properly authenticated, even though the time stamp on the video was inaccurate. *Mitchell v. State*, 320 Ga. 673, 911 S.E.2d 607, 2025 Ga. LEXIS 7 (2025).

CHAPTER 10

BEST EVIDENCE RULE

24-10-1002. Requirement of original.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION APPLICATION

General Consideration

Waiver of rule. — Defendant affirmatively waived any claim of a violation of the best evidence rule by soliciting the testimony and having the investigator's sketch admitted into evidence after the video was not available. *Miller v. State*, 374 Ga. App. 360, 912 S.E.2d 733, 2025 Ga. App. LEXIS 53 (2025).

Application

Testimony about contents of doorbell camera video. — Trial court did not plainly err by permitting the victim, an officer, and a detective from testifying about the contents of video footage captured by the victim's doorbell camera because the record supported the determination that the footage was lost as the victim no longer had the cell phone on which the footage was stored, and the defendant did not point to any evidence indicating that bad faith by the state played any role in making the footage unavailable. *Render v. State*, 320 Ga. 890, 912 S.E.2d 679, 2025 Ga. LEXIS 38 (2025).

Recording of conversation from cell phone. — Trial court did not violate O.C.G.A. § 24-10-1002 by allowing the assistant manager of the apartment complex to play the recording of a conversation with the father regarding removing his name from the lease directly from the manager's cell phone because it was undisputed that the original recording was playing for the trial court and the father did not contend that the recording contained on the thumb drive submitted into evidence had been altered from the original recording. In the *Interest of H. H.*, 374 Ga. App. 468, 913 S.E.2d 107, 2025 Ga. App. LEXIS 78 (2025).

Text message and original text lost. — Trial court did not plainly err in admitting evidence about the content of text messages the defendant allegedly sent regarding the shooting as an exception to the best evidence rule applied when the original messages were lost. *Tucker v. State*, 321 Ga. 278, 912 S.E.2d 639, 2025 Ga. LEXIS 30 (2025).

24-10-1004. Admissibility of other evidence of contents of a writing, recording, or photograph.

JUDICIAL DECISIONS

ANALYSIS

APPLICATION

3. CRIMINAL MATTERS

Application

3. Criminal Matters

Summaries of audio recordings. — Revocation of defendant's probation was remanded for reconsideration as the trial court erred in admitting summaries of audio recordings of phone calls over a best

evidence objection without the proper showings under O.C.G.A. § 24-10-1004 as the state made no showing that the original recordings were unavailable or inaccessible. *Alexander v. State*, 371 Ga. App. 532, 901 S.E.2d 584, 2024 Ga. App. LEXIS 181 (2024).

CHAPTER 12

MEDICAL AND OTHER CONFIDENTIAL INFORMATION

Article 3

AIDS Information

Sec.

24-12-21. Disclosure of AIDS confidential information.

ARTICLE 1

**RELEASE OF MEDICAL INFORMATION AND
CONFIDENTIALITY OF RAW RESEARCH DATA**

24-12-1. Release of medical information by physician, hospital, health care facility, or pharmacist; immunity from liability; waiver of privilege; exceptions.

Law reviews.

For article, "Privacy for Student-Pa-

tients: A Call to Action," see 73 Emory L.J. 83 (2023).

ARTICLE 3

AIDS INFORMATION

24-12-21. Disclosure of AIDS confidential information.

(a) Any term used in this Code section and defined in Code Section

31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.

(b) Except as otherwise provided in this Code section:

(1) No person or legal entity which receives AIDS confidential information pursuant to this Code section or which is responsible for recording, reporting, or maintaining AIDS confidential information shall:

(A) Intentionally or knowingly disclose that information to another person or legal entity; or

(B) Be compelled by subpoena, court order, or other judicial process to disclose that information to another person or legal entity; and

(2) No person or legal entity which receives AIDS confidential information which that person or legal entity knows was disclosed in violation of paragraph (1) of this subsection shall:

(A) Intentionally or knowingly disclose that information to another person or legal entity; or

(B) Be compelled by subpoena, court order, or other judicial process to disclose that information to another person or legal entity.

(c) AIDS confidential information shall be disclosed to the person identified by that information or, if that person is an incompetent person, to that person's legal guardian. AIDS confidential information may be disclosed to such person's parent or legal guardian if that person is a minor.

(d) AIDS confidential information shall be disclosed to any person or legal entity designated to receive that information when that designation is made in writing by the person identified by that information or, if that person is a minor or incompetent person, by that person's parent or legal guardian.

(e) AIDS confidential information shall be disclosed to any agency or department of the federal government, this state, or any political subdivision of this state if that information is authorized or required by law to be reported to that agency or department.

(f) The results of an HIV test shall be disclosed to the person, or that person's designated representative, who ordered such tests of the body fluids or tissue of another person.

(g) When the patient of a physician has been determined to be infected with HIV and that patient's physician reasonably believes that the spouse or sexual partner or any child of the patient, spouse, or

sexual partner is a person at risk of being infected with HIV by that patient, the physician may disclose to that spouse, sexual partner, or child that the patient has been determined to be infected with HIV, after first attempting to notify the patient that such disclosure is going to be made.

(h)(1) An administrator of an institution licensed as a hospital by the Department of Community Health or a physician having a patient who has been determined to be infected with HIV may disclose to the Department of Public Health:

(A) The name and address of that patient;

(B) That such patient has been determined to be infected with HIV; and

(C) The name and address of any other person whom the disclosing physician or administrator reasonably believes to be a person at risk of being infected with HIV by that patient.

(2) When mandatory and nonanonymous reporting of confirmed positive HIV tests to the Department of Public Health is determined by that department to be reasonably necessary, that department shall establish by regulation a date on and after which such reporting shall be required. On and after the date so established, each health care provider, health care facility, or any other person or legal entity which orders an HIV test for another person shall report to the Department of Public Health the name and address of any person thereby determined to be infected with HIV. No such report shall be made regarding any confirmed positive HIV test provided at any anonymous HIV test site operated by or on behalf of the Department of Public Health.

(3) The Department of Public Health may disclose that a person has been reported, under paragraph (1) or (2) of this subsection, to have been determined to be infected with HIV to the board of health of the county in which that person resides or is located if reasonably necessary to protect the health and safety of that person or other persons who may have come in contact with the body fluids of the HIV infected person. The Department of Public Health or county board of health to which information is disclosed pursuant to this paragraph or paragraph (1) or (2) of this subsection:

(A) May contact any person named in such disclosure as having been determined to be an HIV infected person for the purpose of counseling that person and requesting therefrom the name of any other person who may be a person at risk of being infected with HIV by that HIV infected person;

(B) May contact any other person reasonably believed to be a person at risk of being infected with HIV by that HIV infected

person for the purposes of disclosing that such infected person has been determined to be infected with HIV and counseling such person to submit to an HIV test; and

(C) Shall contact and provide counseling to the spouse of any HIV infected person whose name is thus disclosed if both persons are reasonably likely to have engaged in sexual intercourse or any other act determined by the Department of Public Health likely to have resulted in the transmission of HIV between such persons within the preceding seven years and if that spouse may be located and contacted without undue difficulty.

(h.1) The Department of Public Health may disclose AIDS confidential information regarding a person who has been reported, under paragraph (1) or (2) of subsection (h), to be infected with HIV to a health care provider licensed pursuant to Chapter 11, 26, or 34 of Title 43 whom that person has consulted for medical treatment or advice.

(i) Any health care provider authorized to order an HIV test may disclose AIDS confidential information regarding a patient thereof if that disclosure is made to a health care provider or health care facility which has provided, is providing, or will provide any health care service to that patient and as a result of such provision of service that health care provider or facility:

(1) Has personnel or patients who may be persons at risk of being infected with HIV by that patient, if that patient is an HIV infected person and such disclosure is reasonably necessary to protect any such personnel or patients from that risk; or

(2) Has a legitimate need for that information in order to provide that health care service to that patient.

(j) A health care provider or any other person or legal entity authorized but not required to disclose AIDS confidential information pursuant to this Code section shall have no duty to make such disclosure and shall not be liable to the patient or any other person or legal entity for failing to make such disclosure. A health care provider or any other person or legal entity which discloses information as authorized or required by this Code section or as authorized or required by law or rules or regulations made pursuant thereto shall have no civil or criminal liability therefor.

(k) When any person or legal entity is authorized or required by this Code section or any other law to disclose AIDS confidential information to a person at risk of being infected with HIV and that person at risk is a minor or incompetent person, such disclosure may be made to any parent or legal guardian of the minor or incompetent person, to the minor or incompetent person, or to both the minor or incompetent person and any parent or legal guardian thereof.

(l) When an institutional care facility is the site at which a person is at risk of being infected with HIV and as a result of that risk a disclosure of AIDS confidential information to any person at risk at that site is authorized or required under this Code section or any other law, such disclosure may be made to the person at risk or to that institutional care facility's chief administrative or executive officer, or such officer's designee, in which case that officer or designee shall be authorized to make such disclosure to the person at risk.

(m) When a disclosure of AIDS confidential information is authorized or required by this Code section to be made to a physician, health care provider, or legal entity, that disclosure may be made to employees of that physician, health care provider, or legal entity who have been designated thereby to receive such information on behalf thereof. Those designated employees may thereafter disclose to and provide for the disclosure of that information among such other employees of that physician, health care provider, or legal entity, but such disclosures among those employees shall only be authorized when reasonably necessary in the ordinary course of business to carry out the purposes for which that disclosure is authorized or required to be made to that physician, health care provider, or legal entity.

(n) Any disclosure of AIDS confidential information authorized or required by this Code section or any other law and any unauthorized disclosure of such information shall in no way destroy the confidential nature of that information except for the purpose for which the authorized or required disclosure is made.

(o) Any person or legal entity which violates subsection (b) of this Code section shall be guilty of a misdemeanor.

(p) Nothing in this Code section or any other law shall be construed to authorize the disclosure of AIDS confidential information if that disclosure is prohibited by federal law, or regulations promulgated thereunder, nor shall anything in this Code section or any other law be construed to prohibit the disclosure of information which would be AIDS confidential information except that such information does not permit the identification of any person.

(q) A public safety agency or prosecuting attorney may obtain the results from an HIV test to which the person named in the request has submitted under Code Section 15-11-603, 17-10-15, 42-5-52.1, or 42-9-42.1, notwithstanding that the results may be contained in a sealed record.

(r) Any person or legal entity required by an order of a court to disclose AIDS confidential information in the custody or control of such person or legal entity shall disclose that information as required by that order.

(s) AIDS confidential information shall be disclosed as medical information pursuant to Code Section 24-12-1 or pursuant to any other law which authorizes or requires the disclosure of medical information if:

(1) The person identified by that information:

(A) Has consented in writing to that disclosure;

(B) Has been notified of the request for disclosure of that information at least ten days prior to the time the disclosure is to be made and does not object to such disclosure prior to the time specified for that disclosure in that notice; or

(C) Is suspected of being mentally ill and is the subject of an order issued pursuant to Code Section 37-3-41 when the court issuing such order finds in an in camera hearing by clear and convincing evidence a compelling need for the information which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this subparagraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal; or

(2) A superior court in an in camera hearing finds by clear and convincing evidence a compelling need for the information which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests. If the court determines that disclosure of that information is authorized under this paragraph, the court shall order that disclosure and impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal.

(t)(1) A superior court of this state may order a person or legal entity to disclose AIDS confidential information in its custody or control to:

(A) A prosecutor in connection with a prosecution for the alleged commission of reckless conduct under subsection (c) of Code Section 16-5-60;

(B) Any party in a civil proceeding; or

(C) A public safety agency or the Department of Public Health if that agency or department has an employee thereof who has, in the course of that employment, come in contact with the body fluids of the person identified by the AIDS confidential information sought in such a manner reasonably likely to cause that employee to become an HIV infected person and provided the disclosure is necessary for the health and safety of that employee,

and, for purposes of this subsection, the term “petitioner for disclosure” means any person or legal entity specified in subparagraph (A), (B), or (C) of this paragraph.

(2) An order may be issued against a person or legal entity responsible for recording, reporting, or maintaining AIDS confidential information to compel the disclosure of that information if the petitioner for disclosure demonstrates by clear and convincing evidence a compelling need for the information which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest which may be disserved by disclosures which may deter voluntary HIV tests.

(3) A petition seeking disclosure of AIDS confidential information under this subsection shall substitute a pseudonym for the true name of the person concerning whom the information is sought. The disclosure to the parties of that person’s true name shall be communicated confidentially, in documents not filed with the court.

(4) Before granting any order under this subsection, the court shall provide the person concerning whom the information is sought with notice and a reasonable opportunity to participate in the proceedings if that person is not already a party.

(5) Court proceedings as to disclosure of AIDS confidential information under this subsection shall be conducted in camera unless the person concerning whom the information is sought agrees to a hearing in open court.

(6) Upon the issuance of an order that a person or legal entity be required to disclose AIDS confidential information regarding a person named in that order, that person or entity so ordered shall disclose to the ordering court any such information which is in the control or custody of that person or entity and which relates to the person named in the order for the court to make an in camera inspection thereof. If the court determines from that inspection that the person named in the order is an HIV infected person, the court shall disclose to the petitioner for disclosure that determination and shall impose

appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

(7) The record of the proceedings under this subsection shall be sealed by the court.

(8) An order may not be issued under this subsection against the Department of Public Health, any county board of health, or any anonymous HIV test site operated by or on behalf of that department.

(u) A health care provider, health care facility, or other person or legal entity who, in violation of this Code section, unintentionally discloses AIDS confidential information, notwithstanding the maintenance of procedures thereby which are reasonably adopted to avoid risk of such disclosure, shall not be civilly or criminally liable, unless such disclosure was due to gross negligence or wanton and willful misconduct.

(v) AIDS confidential information may be disclosed when that disclosure is otherwise authorized or required by Code Section 42-1-6, if AIDS or HIV infection is the communicable disease at issue, or when that disclosure is otherwise authorized or required by any law which specifically refers to "AIDS confidential information," "HIV test results," or any similar language indicating a legislative intent to disclose information specifically relating to AIDS or HIV.

(w) A health care provider who has received AIDS confidential information regarding a patient from the patient's health care provider directly or indirectly under the provisions of subsection (i) of this Code section may disclose that information to a health care provider which has provided, is providing, or will provide any health care service to that patient and as a result of that provision of service that health care provider:

(1) Has personnel or patients who may be persons at risk of being infected with HIV by that patient, if that patient is an HIV infected person and such disclosure is reasonably necessary to protect any such personnel or patients from that risk; or

(2) Has a legitimate need for that information in order to provide that health care service to that patient.

(x) Neither the Department of Public Health nor any county board of health shall disclose AIDS confidential information contained in its records unless such disclosure is authorized or required by this Code section or any other law, except that such information in those records shall not be a public record and shall not be subject to disclosure through subpoena, court order, or other judicial process.

(y) The protection against disclosure provided by Code Section 24-12-20 shall be waived, and AIDS confidential information may be disclosed, to the extent that the person identified by such information; such person's heirs, successors, or assigns; a beneficiary of such person's estate; or the personal representative of such person's estate:

(1) Files a claim or claims other entitlements under any insurance policy or benefit plan or is involved in any civil proceeding regarding such claim;

(2) Places such person's care and treatment, the nature and extent of his or her injuries, the extent of his or her damages, his or her medical condition, or the reasons for his or her death at issue in any judicial proceeding; or

(3) Is involved in a dispute regarding coverage under any insurance policy or benefit plan.

(z) AIDS confidential information may be collected, used, and disclosed by an insurer in accordance with the provisions of Chapter 39 of Title 33.

(aa) In connection with any judicial proceeding in which AIDS confidential information is disclosed as authorized or required by this Code section, the party to whom that information is thereby disclosed may subpoena any person to authenticate such AIDS confidential information, establish a chain of custody relating thereto, or otherwise testify regarding that information, including, but not limited to, testifying regarding any notifications to the patient regarding results of an HIV test. The provisions of this subsection shall apply to records, personnel, or both of the Department of Public Health or a county board of health notwithstanding Code Section 50-18-72, but only as to test results obtained by a prosecutor under subsection (q) of this Code section and to be used thereby in a prosecution for reckless conduct under subsection (c) of Code Section 16-5-60.

(bb) AIDS confidential information may be disclosed as a part of any proceeding or procedure authorized or required pursuant to Chapter 3, 4, or 7 of Title 37 regarding a person who is alleged to be or who is mentally ill, developmentally disabled, or alcoholic or drug dependent; as a part of any proceeding or procedure authorized or required pursuant to Title 29 regarding the guardianship of a person or the conservatorship of a person's estate; or as a part of any proceeding or procedure authorized or required pursuant to Title 53 regarding the estate of a deceased person, as follows:

(1) Any person who files or transmits a petition or other document that discloses AIDS confidential information in connection with any such proceeding or procedure shall provide a cover page that contains

only the type of proceeding or procedure, the court in which the proceeding or procedure is or will be pending, and the words “CONFIDENTIAL INFORMATION” without in any way otherwise disclosing thereon the name of any individual or that such petition or other document specifically contains AIDS confidential information;

(2) AIDS confidential information shall only be disclosed pursuant to this subsection after disclosure to and with the written consent of the person identified by that information; that person’s parent or guardian if that person is a minor; that person’s guardian, if that person previously has been adjudicated as being in need of a guardian; the personal representative of that person’s estate, if that person is deceased; or by order of court obtained in accordance with subparagraph (C) of paragraph (3) of this subsection;

(3) If any person files or transmits a petition or other document in connection with any such proceeding or procedure that discloses AIDS confidential information without obtaining consent as provided in paragraph (2) of this subsection, the court receiving such information shall either obtain written consent as set forth in that paragraph (2) for any further use or disclosure of such information or:

(A) Return such petition or other document to the person who filed or transmitted same, with directions against further filing or transmitting of such information in connection with such proceeding or procedure except in compliance with this subsection;

(B) Delete or expunge all references to such AIDS confidential information from the particular petition or other document; or

(C)(i) If the court determines there is a compelling need for such information in connection with the particular proceeding or procedure, petition a superior court of competent jurisdiction for permission to obtain or disclose that information. If the person identified by the information is not yet represented by an attorney in the proceeding or procedure in connection with which the information is sought, the petitioning court shall appoint an attorney for such person. The petitioning court shall have both that person and that person’s attorney personally served with notice of the petition and of the date, time, and place of the superior court hearing thereon. Such hearing shall not be held sooner than 72 hours after service, unless the information is to be used in connection with an emergency guardianship proceeding under Code Section 29-4-14, in which event the hearing shall not be held sooner than 48 hours after service.

(ii) The superior court in which a petition is filed pursuant to division (i) of this subparagraph shall hold an in camera hearing

on such petition. The purpose of the hearing shall be to determine whether there is clear and convincing evidence of a compelling need for the AIDS confidential information sought in connection with the particular proceeding or procedure that cannot be accommodated by other means. In assessing compelling need, the superior court shall weigh the public health, safety, or welfare needs or any other public or private need for the disclosure against the privacy interest of the person identified by the information and the public interest that may be disserved by disclosures that may deter voluntary HIV tests. If the court determines that disclosure of such information is authorized under this subparagraph, the court shall order such disclosure and shall impose appropriate safeguards against any unauthorized disclosure. The records of that hearing otherwise shall be under seal; and

(4) The court having jurisdiction over such proceeding or procedure, when it becomes apparent that AIDS confidential information will likely be or has been disclosed in connection with such proceeding or procedure, shall take such measures as the court determines appropriate to preserve the confidentiality of the disclosed information to the maximum extent possible. Such measures shall include, but shall not be limited to, closing the proceeding or procedure to the public and sealing all or any part of the records of the proceeding or procedure containing AIDS confidential information. The records of any appeals taken from any such proceeding or procedure shall also be sealed. Furthermore, the court may consult with and obtain the advice of medical experts or other counsel or advisers as to the relevance and materiality of such information in such proceedings or procedures, provided that the identity of the person identified by such information is not thereby revealed.

History.

Code 1981, § 24-12-21, enacted by Ga. L. 2011, p. 99, § 2/HB 24; Ga. L. 2012, p. 775, § 24/HB 942; Ga. L. 2013, p. 294, § 4-42/HB 242; Ga. L. 2014, p. 814, § 1/SB 342; Ga. L. 2015, p. 598, § 1A-1/HB 72; Ga. L. 2016, p. 735, § 5/HB 1058; Ga. L. 2025, p. 806, § 18/HB 327, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in subsection (y), inserted a comma following “waived” and “disclosed”, and substituted “such information; such person’s heirs, successors, or assigns; a beneficiary of such person’s estate; or the personal” for “such information, his or her heirs, successors, assigns,

or a beneficiary of such person, including, but not limited to, an executor, administrator, or personal”; in subsection (bb), deleted a comma following “Title 37”, substituted “drug dependent; as a” for “drug dependent, or as a”, deleted a comma following “Title 29”, and substituted “person or the conservatorship of a person’s estate; or as a part of any proceeding or procedure authorized or required pursuant to Title 53 regarding the estate of a deceased person,” for “person or that person’s estate,”; in paragraph (bb)(1), substituted “that” for “which” in two places; in paragraph (bb)(2), substituted “that information; that person’s” for “that information, or that person’s”, and substituted “minor; that person’s guardian, if that

person previously has been adjudicated as being in need of a guardian; the personal representative of that person's estate, if that person is deceased;" for "minor or has previously been adjudicated as being incompetent,"; in paragraph (bb)(3), substituted "that" for "which"; in subparagraph (bb)(3)(A), substituted "transmitting" for "transmittal", in division (bb)(3)(C)(i), substituted "petition and of the date, time,

and place" for "petition and time and place", in division (bb)(3)(C)(ii), substituted "that" for "which" in the second sentence and in two places in the third sentence, substituted "such" for "that" in two places in the third sentence and inserted "shall" following "disclosure and"; and in paragraph (bb)(4), substituted "but shall not be limited to" for "without being limited to" in the second sentence.

CHAPTER 14

PROOF GENERALLY

ARTICLE 1

GENERAL PROVISIONS

24-14-6. Conviction based on circumstantial evidence.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

EXCLUSION OF REASONABLE HYPOTHESIS

INSTRUCTIONS

1. IN GENERAL

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE

1. IN GENERAL

2. CRIMES AGAINST THE PERSON

4. DRUG CRIMES

APPEAL

General Consideration

Statute applies to circumstantial evidence, not direct evidence.

Since the state presented direct evidence of the defendant's guilt in the form of a victim's testimony about the defendant's commission of the crimes and testimony that the defendant admitted to shooting the victim, O.C.G.A. § 24-14-6 did not apply, and the defendant's claim that the evidence was insufficient failed. *Dillard v. State*, 321 Ga. 171, 913 S.E.2d 629, 2025 Ga. LEXIS 56 (2025).

Exclusion of Reasonable Hypothesis

Rejection of alternative hypothesis.

Jury was authorized to reject as unreasonable defendant's alternative hypothesis that another man fired the fatal bullet because the jury heard both the man's and a witness's interview statements that defendant was the "closest" person to the van, and that, unlike those two, defendant shot at the vehicle rather than in the air. The jury also heard the man's statement that he attempted to shoot his revolver in the air but that his gun would not fire.

Morris v. State, 317 Ga. 87, 891 S.E.2d 859, 2023 Ga. LEXIS 169 (2023).

Evidence was sufficient to support defendant's convictions of malice murder and being a felon in possession of a firearm and it authorized the jury to reject defendant's alternative hypothesis that he was framed by the police because his two children and the responding officers testified that defendant and the victim were lying wounded on the bedroom floor, the bullet recovered from the victim's body matched the gun in defendant's hand and the ammunition in his pocket. *Shellman v. State*, 318 Ga. 71, 897 S.E.2d 355, 2024 Ga. LEXIS 7 (2024).

Even assuming that the evidence against defendant was entirely circumstantial, the jury was authorized to reject as unreasonable defendant's hypothesis that one person alone was responsible for the shooting, given the evidence adduced. Indeed, the more reasonable hypothesis that the jury was allowed to credit was that the other person and defendant's brother were the shooters and that they fired on the victims when defendant intentionally pulled his car alongside the victim's after following them from the nightclub. *Adams v. State*, 318 Ga. 105, 897 S.E.2d 396, 2024 Ga. LEXIS 8 (2024).

Since the jury was authorized to credit one expert's testimony over that of two others, and to exclude as unreasonable the hypothesis that the victim died solely from her use of methamphetamine, the state presented evidence sufficient to support the defendant's conviction for felony murder. *Clements v. State*, 321 Ga. 164, 913 S.E.2d 590, 2025 Ga. LEXIS 47 (2025).

Misapprehension as to age is not excuse. — Defendant's judgment of conviction for interstate interference with custody was upheld because the defendant's reliance on the reasonable hypothesis rule that the defendant was unaware of the child's age failed since such rule only applied when the evidence was entirely circumstantial and the victim's testimony provided direct evidence that defendant knew the age of the victim. *Myers v. State*, 370 Ga. App. 643, 898 S.E.2d 834, 2024 Ga. App. LEXIS 68 (2024).

Instructions

1. In General

Failure to charge on circumstantial evidence did not constitute plain error.

Trial court did not err in failing to instruct the jury on O.C.G.A. § 24-14-6 because the trial court gave the pattern jury instruction on direct and circumstantial evidence which conveyed the substance of § 24-14-6. *Sauder v. State*, 318 Ga. 791, 901 S.E.2d 124, 2024 Ga. LEXIS 97 (2024).

Sufficiency of Circumstantial Evidence

1. In General

Evidence held insufficient to support conviction.

Defendant's convictions for family violence aggravated battery and cruelty to children were upheld because the circumstantial evidence was sufficient as the jury reasonably inferred that defendant inflicted the injuries during periods defendant had sole custody of the child and defendant's marijuana use was intrinsic evidence necessary to complete the story of indifference toward seeking medical care for the child's serious injuries. *McCloud v. State*, 371 Ga. App. 480, 901 S.E.2d 315, 2024 Ga. App. LEXIS 174 (2024).

2. Crimes Against the Person

Malice murder.

Evidence was sufficient for the jury to reject the claim of defendants two and three that they were merely present at the murder because cell phone data showed that defendants' phones moved together around the city before and after the crimes and stayed in communication throughout the day, defendant two lied to the police that he was texting when the crimes occurred, and defendant three parked his car behind the victim's car at the murder scene. *Bates v. State*, 317 Ga. 809, 896 S.E.2d 581, 2023 Ga. LEXIS 262 (2023).

Evidence that the defendant had a history of physically abusing the victim as well as another girlfriend, threatened to kill the victim the evening before the

Sufficiency of Circumstantial**Evidence (Cont'd)****2. Crimes Against the Person (Cont'd)**

victim was found dead, was the last person to see the victim on the night that the victim died, attempted to flee officers, and then lied to officers about where the defendant was on the night the victim died was sufficient to support the defendants' conviction for malice murder. *Hill v. State*, 319 Ga. 250, 903 S.E.2d 101, 2024 Ga. LEXIS 140 (2024).

Assuming defendant's conviction was based solely on circumstantial evidence, it satisfied O.C.G.A. § 24-14-6 as the statute permitted the jury to find that defendant was driving the vehicle the victim approached before witnesses heard shots and the victim was found dead, testimony placed defendant in the car a few minutes before and a short distance from the shooting, and defendant owned a firearm that used the type of round matching the shell casing found on the road at the scene. *Wilson v. State*, 319 Ga. 550, 905 S.E.2d 557, 2024 Ga. LEXIS 168 (2024).

Evidence of the defendant's presence near the scene, the defendant's incriminating statements, the ballistics evidence, and the defendant's flight was sufficient to support the defendant's conviction for malice murder. *Weston v. State*, 320 Ga. 472, 910 S.E.2d 155, 2024 Ga. LEXIS 293 (2024).

Evidence presented at trial was sufficient as a matter of constitutional due process to authorize the jury to find defendant guilty of the victim's murder and the other offenses with which he was charged because the evidence, while circumstantial, was sufficient under Georgia statutory law to exclude every other reasonable hypothesis except that defendant was guilty of the crimes. The evidence supported the reasonable hypothesis that defendant, whose cell-phone-location data placed him at the victim's house between the night of April 5 and morning of April 6, beat the victim to death that night and started a fire in her bedroom in an apparent attempt to conceal the crime. *Arnold v. State*, 321 Ga. 434, 2025 Ga. LEXIS 91 (2025).

Evidence sufficient for malice murder.

Evidence was sufficient, the jury was authorized to reject as unreasonable the defendant's hypothesis that another person was the shooter based on the evidence as well as the other person's testimony, which the jury was free to credit, that the other person was in Alabama at the time of the shooting and that the other person's ex-girlfriend had given the other person's name to police soon after their breakup. *Weems v. State*, 318 Ga. 98, 897 S.E.2d 368, 2024 Ga. LEXIS 4 (2024).

Evidence was sufficient to support the defendant's convictions for murder and related offenses as a matter of constitutional due process and as a matter of law under O.C.G.A. § 24-14-6 as the evidence presented authorized a reasonable jury to infer that the defendant and the victim had a sexual relationship and would meet late at night or early in the morning to engage in sexual activity, the defendant directed the victim to the park to meet, the defendant was carrying a gun on the night in question, and the defendant shot and killed the victim using that gun. *Nunnally v. State*, 319 Ga. 701, 905 S.E.2d 550, 2024 Ga. LEXIS 172 (2024).

Circumstantial evidence sufficient to sustain conviction in death of child.

Defendant's felony murder conviction involving the death of his six-month old daughter was upheld because the evidence at trial showed that the child died from blunt force trauma to the head that was intentionally inflicted within the 12-hour period she was in defendant's sole care and, although circumstantial, the evidence excluded every reasonable hypothesis other than that of defendant's guilt. *Johnson v. State*, 316 Ga. 672, 889 S.E.2d 914, 2023 Ga. LEXIS 127 (2023).

Evidence was sufficient to support defendant's conviction of felony murder because the jury was authorized to conclude that it was not reasonable to believe that the child victim's mother alone inflicted the fatal injuries as the victim was under the exclusive supervision of both defendant and her mother during the period when she received fatal injuries, and both

defendant and her mother gave statements that downplayed the injuries the victim sustained while in their care and failed to account for the extensive damage to the victim's body. *Payne v. State*, 318 Ga. 249, 897 S.E.2d 809, 2024 Ga. LEXIS 26 (2024).

Murder of child.

It was within the jury's purview to reject the alternative hypotheses that someone else inflicted the trauma on the child before the day of the child's death or that the child's death was caused by an enlarged heart as unreasonable given the evidence presented. Thus, the evidence was also sufficient as a matter of Georgia statutory law to support the defendant's felony murder conviction. *Remler v. State*, 318 Ga. 61, 897 S.E.2d 376, 2024 Ga. LEXIS 2 (2024).

Evidence sufficient for malice murder and armed robbery convictions.

Evidence was sufficient to support the defendant's convictions for malice murder, armed robbery, and possession of a firearm during the commission of a felony and under O.C.G.A. § 24-14-6 to support the jury's rejection of the defendant's hypothesis that the defendant was not "Youngster" and that Youngster, not the

defendant, killed the victim. *Moulder v. State*, 317 Ga. 43, 891 S.E.2d 903, 2023 Ga. LEXIS 165 (2023).

4. Drug Crimes

Evidence sufficient for possession of drugs. — Circumstantial evidence, including the defendant hiding the pills with other contraband and driving in a restricted area used for dropping contraband, was sufficient for the jury to find the defendant possessed oxycodone beyond a reasonable doubt. *Hutchins v. State*, 374 Ga. App. 289, 912 S.E.2d 164, 2025 Ga. App. LEXIS 39 (2025).

Appeal

Exclusion of every reasonable hypothesis not required. — Appellate court rejected defendant's contention that the state failed to exclude every reasonable hypothesis other than her guilt because the evidence showed that defendant was the sole link between the co-defendant and the victim and that defendant concealed information from police officers and, at times, affirmatively misled them. *Grant v. State*, 319 Ga. 490, 904 S.E.2d 338, 2024 Ga. LEXIS 153 (2024).

24-14-8. Number of witnesses required generally; exceptions; effect of corroboration.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

WHO IS AN ACCOMPLICE

SUFFICIENCY OF CORROBORATING EVIDENCE

JURY

General Consideration

Victim's testimony sufficient.

First defendant's challenge to the sufficiency of the evidence to support his child molestation and sexual battery convictions failed because the victims' testimony to others about the acts perpetrated against them was sufficient by itself. *Tarlton v. State*, 368 Ga. App. 313, 890

S.E.2d 10, 2023 Ga. App. LEXIS 298 (2023).

Surviving victim was not an accomplice. — Since there was no evidence that a victim shared a common criminal intent with the defendant to murder the deceased victim, to commit armed robbery or aggravated assault against the deceased victim, or to possess a firearm during the commission of a crime, the surviving vic-

General Consideration (Cont'd)

tim was not the defendant's accomplice and the surviving victim's testimony was not required to be corroborated. *Dillard v. State*, 321 Ga. 171, 913 S.E.2d 629, 2025 Ga. LEXIS 56 (2025).

Who Is an Accomplice**Witness not accomplice.**

No corroboration was needed for the testimony of the witness that codefendant claimed was an accomplice, because there was ample evidence from which the jury could find that the witness was not an accomplice. *Henderson v. State*, 317 Ga. 66, 891 S.E.2d 884, 2023 Ga. LEXIS 179 (2023).

Trial court did not err by denying appellant's motion for a directed verdict because the jury was properly instructed on the requirement for corroboration of an accomplice's testimony and could have reasonably found, based on the evidence presented, that the witness was not an accomplice, and, therefore, corroborating evidence was not required to sustain the guilty verdict. *Berry v. State*, 321 Ga. 251, 913 S.E.2d 684, 2025 Ga. LEXIS 46 (2025).

No plain error in failing to give accomplice instruction. — Trial court did not plainly err by failing to give an accomplice corroboration jury instruction because defendant failed to show prejudice as the independent evidence corroborating the witness's testimony was substantial and consistent, including evidence identifying the shooter as having dreadlocks and defendant as the only person with deadlocks who was present at the trap house. *Carter v. State*, 317 Ga. 689, 895 S.E.2d 295, 2023 Ga. LEXIS 246 (2023).

Trial court did not plainly err by not sua sponte instructing the jury on accomplice corroboration because the evidence did not obviously call for such an instruction, as neither defendant presented evidence in support of an argument that the witness was an accomplice and the evidence in the trial record did not highlight the witness as a potential accomplice. *Baker v. State*, 320 Ga. 156, 907 S.E.2d 824, 2024 Ga. LEXIS 249 (2024).

Sufficiency of Corroborating Evidence**Corroboration by other accomplices.**

Corroborating circumstances supported defendant's conviction of conspiracy to commit robbery and burglary because two accomplices testified at trial and sufficiently corroborated one another's testimony about defendant's involvement in planning and executing the crimes. Defendant's own statements that defendant had been with the accomplices the night of the shooting and that defendant would have shot the cop himself if defendant had still had a gun was corroborating evidence of defendant's conduct before and after the crime was committed. *Clements v. State*, 317 Ga. 772, 896 S.E.2d 549, 2023 Ga. LEXIS 255 (2023).

Defendant's accomplices sufficiently corroborated each other's testimony implicating defendant in the victim's murder because both testified to defendant having a gun, to hearing gunshots as they ran away, to defendant being the shooter, and to defendant running into the woods after the shooting. *Nabors v. State*, 320 Ga. 43, 907 S.E.2d 684, 2024 Ga. LEXIS 227 (2024).

Connection of defendant with crime.

Trial court did not err denying defendant's motion for a directed verdict of acquittal because the victim's testimony alone was sufficient to establish the elements of the child molestation and the jury was authorized to consider, as substantive evidence of defendant's guilt, the victim's out-of-court statements about the sexual abuse that the victim made in the recorded forensic interview and to the sheriff's deputy in the body camera recording. *Brantley v. State*, 370 Ga. App. 757, 899 S.E.2d 284, 2024 Ga. App. LEXIS 84 (2024).

Trial evidence was sufficient under Georgia's accomplice-corroboration statute, O.C.G.A. § 24-14-8, to support appellant's conviction for felony murder as the accomplice testimony was sufficiently corroborated by evidence directly connecting appellant to the crimes. *Washington v. State*, 320 Ga. 839, 912 S.E.2d 600, 2025 Ga. LEXIS 22 (2025).

Trial judge's statement to a witness that "I want to make sure that this is the truth" did not improperly express an opinion about a fact or appellant's guilt and, thus, did not violate O.C.G.A. § 17-8-57(a)(1), because the judge's statement about ensuring the truth did not improperly express an opinion, but rather sought to clarify confusing testimony. *Washington v. State*, 320 Ga. 839, 912 S.E.2d 600, 2025 Ga. LEXIS 22 (2025).

Corroboration of accomplice's testimony.

Evidence was sufficient to corroborate the testimony of an unindicted co-conspirator because the state showed that the physical description of the assailant with the gun who came into the hotel matched defendant, whose fingerprint was found on the front-desk counter at the hotel, the jury was able to independently compare an artist's sketch rendered based on a witness's description with a photograph of defendant, and while in jail defendant made incriminating statements that were played for the jury. *Randolph v. State*, 317 Ga. 146, 891 S.E.2d 818, 2023 Ga. LEXIS 181 (2023).

Given the ample evidence corroborating testimony from two accomplices, the defendant failed to show a reasonable probability that the outcome of the trial would have been different had the jury been instructed under O.C.G.A. § 24-14-8 that an accomplice's testimony must be corroborated. *Sauder v. State*, 318 Ga. 791, 901 S.E.2d 124, 2024 Ga. LEXIS 97 (2024).

There was sufficient corroboration for the accomplices' testimonies because the GPS in the car showed the prison was the destination, and police found tape and other items used to commit the crime in the back seat of the car near defendant. Additionally, there was testimony and statements from one accomplice that defendant offered to pay him to ride with them, and defendant told the police that someone offered him money to ride to the prison. *Henry v. State*, 374 Ga. App. 246,

911 S.E.2d 455, 2025 Ga. App. LEXIS 10 (2025).

Testimony of the accomplice was sufficiently corroborated by independent evidence, including evidence about the set-up of the robbery, shooting of the victim, attempt to hide evidence, and flight to New York, including the discovery of the murder weapon in the defendant's bedroom as the accomplice described where the weapon was hidden. *Pindling v. State*, 321 Ga. 231, 913 S.E.2d 659, 2025 Ga. LEXIS 54 (2025).

Accomplice's testimony not sufficiently corroborated. — Defendant's convictions for aggravated assault and theft were reversed because there was insufficient accomplice corroboration as the only evidence showing that defendant was present for or participated in those crimes came from defendant's accomplice, and none of the other evidence the state pointed to supported a reasonable inference that defendant was present for and participated in the crimes. Witnesses' testimony that a white vehicle was present when their vehicle was stolen did not support a reasonable inference about who might have been inside the white vehicle. *Render v. State*, 320 Ga. 890, 912 S.E.2d 679, 2025 Ga. LEXIS 38 (2025).

Jury

Corroboration instruction.

Trial court did not plainly err in instructing the jury regarding the corroboration requirement for an accomplice's testimony under O.C.G.A. § 24-14-8 because the court's instruction accurately reflected Georgia law as to the corroboration requirement, it was highly unlikely that the trial court's reference to some, but not all of defendant's felony charges in the instruction had any bearing on the outcome of his trial as all of his charges related to the same continuous crime spree, and the state presented corroborating evidence for the accomplice's testimony as to all charges. *MacMillan v. State*, 372 Ga. App. 796, 906 S.E.2d 876, 2024 Ga. App. LEXIS 362 (2024).

