IN THE SUPREME COURT OF GEORGIA

ALICE BLACKWELL, APPELLANT	* *	
V.	*	S26A1628
	*	
STATE OF GEORGIA APPELLEE.	* *	

INITIAL BRIEF OF APPELLANT ALICE BLACKWELL

JURISDICTIONAL STATEMENT

The Georgia Supreme Court has jurisdiction of this case on appeal pursuant to the Georgia Constitution, Article VI, Section VI, Paragraph III and because it is a murder case for which death could have been imposed.

STATEMENT OF THE CASE

On January 25, 2024 , Appellant Alice Blackwell was indicted for one count of malice murder (Count One (1)); three counts of felony murder (Counts Two (2), Four (4), and Six (6)); two counts of arson in the first degree (Counts Three (3) and Five (5)); and one count of criminal damage to property in the first degree (Count Seven (7)), related to a fire that occurred on August 12, 2022, which subsequently resulted in the death of Carl Phillips. (R1-4-8). A jury trial in the case began on April 22, 2024. (T3-

191).[1] On April 26, 2024, the jury found Appellant not guilty of Count One (1) malice murder. (R1-66-67). However, the jury did find her guilty with respect to all remaining counts. (R1-66-67). On April 26, 2024, the Court sentenced Appellant to life without parole for Count Two (2) and ten (10) years to serve for Count Seven (7), concurrent with Count Two (2). Counts Three (3) and Five (5) merged into Count Two (2); and Counts Four (4) and Six (6) were vacated as a matter of law. (R1-77-79). Trial counsel filed a timely motion for a new trial on May 2, 2024, raising general grounds. (R1-82-82). An Amended Motion for New Trial was filed on October 23, 2025. (R1-111-116). A hearing on Appellant's motion was held on January 9, 2025 (T8-1039). The Appellant's Motion for New Trial was denied by Order of the Court on January 28, 2026 (R1-151-155). This appeal followed.

STATEMENT OF THE FACTS

Sharon Latners testified for the State. She testified that she worked for the City of Atlanta's 911 Communication Center in dispatch. (T4-467).[2] She testified that she received a 911 call on April 12, 2022, related to a house

[1] T3 represents Volume 1 of the trial transcripts on record. The number following T3 represents the page number of the transcript volume.
[2] T4 represents Volume 2 of the trial transcripts on record. The number following T4 represents the page number of the transcript volume.

fire on Chappell Road at or about 11: 08 a.m. that morning. (T4--470; T4-473).

David Hunter testified for the State. He testified that he had known James Lovelace, the owner of the home that caught on fire, for about 10 to 15 years. (T4-474). He testified that he also knew victim Carl Phillips, the gentleman who died in the house fire. (T4-476). He testified that the last time that he saw Carl Phillips was around 10:00 p.m. on April 11, 2022. (T4-478-479). He testified that around that time Carl went to James Lovelace's home on Chappell Road. (T4-478). He testified that he also went to that home on Chappell Road about an hour later and stayed on the porch. (T4-478). He testified that he heard a van pulling up to the home. (T4-480). He testified that he knew it was a van from the sound of the vehicle and from what sounded like a van's sliding doors. (T4-481; T4-482). He testified that he heard the sound of someone walking towards the house, followed by a boom and a sizzle. (T4-481). He testified that he then saw black smoke appear. (T4-481). He testified that the sizzling sound reminded him of fire burning or burning electrical wires. (T4-483). He testified that when he heard a transmitter go out, he pulled the cover off of his head and saw a wall of smoke. (T4-484). He testified that he then

managed to pull himself together and get away from the house. (T4-484).

He testified that once he got out of the house he looked toward the front of the house where the electrical wires ran and thought that he saw a Molotov cocktail. (T4-485). He testified that the house was on fire. (T4-485). He testified that he returned to the house the next morning and saw two bottles. (T4-489). He testified that one bottle appeared to contain a rag and gas in it. (T4-490). He testified that the other appeared to just have gas in it. (T4-490). He testified that he informed the fire inspectors of what he found. (T4-490).

Sergeant Shane Bell testified for the State. He testified that he worked for the City of Atlanta Fire Rescue Department. (T4-505) as a Firefighter/EMT. (T4-505). He testified that on April 12, 2022, he responded to a fire at 547 Chappell Road Northwest. (T4-511). He testified that the address was located in Fulton County. (T4-511). He testified that when he arrived at the home, he saw smoke and fire coming from the front of the house. (T4-512). He testified that he removed boards from the windows and that when he looked inside he saw an individual lying on the floor. (T4-513). He testified that the person wasn't moving. (T4-513). He testified that he pulled the person out of the home. (T4-513). He testified

that the person that he pulled out of the house was an African-American male. (T4-514). He testified that he could not find a pulse when he checked for one. (T4-515). He testified that he performed CPR until the paramedics arrived and then he handed the victim off to the paramedics. (T4-515).

Dr. Karen Sullivan testified for the State. She testified that she was the Chief Medical Examiner for the Fulton County Medical Examiner's Office in Atlanta, Georgia. (T4-524). She testified that she was not involved in the actual autopsy of Carl Phillips, but that she did peer review the autopsy done by Dr. Frederick Helman. (T4-533). She's testified that she saw soot in the victim's nostrils and throat, which was consistent with having been in a house fire. (T4-537). She testified that the victim also had an anoxic brain injury. (T4-537). She testified that the injury was caused by smoke and soot inhalation, including carbon monoxide and cyanide. (T4-537). She testified that he was pronounced dead at the hospital. (T4-539). She testified that the cause of death was smoke and soot inhalation and carbon monoxide toxicity. (T4-540). She testified that the manner of death was a homicide. (T4-542).

James Lovelace testified for the State. He testified that he was the owner of the home at 547 Chappell Road Northwest. (T4-546). He testified

that he did not have insurance on the house. (T4-547). He testified that he and the victim were friends. (T4-548). He testified that the victim lived with him at the address on Chappell Road. (T4-548).

He testified that he also knew the Appellant, Alice Blackwell. (T4-551). He testified that he reached out to her on her birthday in 2022. (T4-553). He testified that he was in Clayton County at the time and that she came to visit him there. (T4-554). He testified that she came alone in a white van. (T4-555). He testified that he decided to take her out for her birthday. (T4-555). He testified that he took her out and bought her shoes and clothes; gave her some money; and got her hair and nails done. (T4-556). He testified that they eventually got into an argument. (T4-558). He testified that she took him back to the address in Clayton County. (T4-559). He testified that she eventually accused him of stealing her birthday money. (T4-560). He testified that she threw a flowerpot at him. (T4-563). He testified that she tried to hit him with the van. (T4-564). He testified that he also heard her tell somebody to come and shoot his house up. (T4-564). He testified that he tried to return to his home, but that when he got to the entrance of the subdivision, he noticed that the Appellant was still parked at the entrance. (T4-564). He testified that he then called the police. (T4-

564-565). He testified that that was the last time he saw her in person. (T4-565).

He testified that he returned to the home on Chappell Drive after the fire and that someone by the name of Dave brought him bottles that appeared to have been related to the fire. (T4-576). He testified that the bottles appeared to have paper and maybe gas in them. (T4-577). He testified that he gave those bottles to the police. (T4-575; T4-577).

William Dunn testified. He testified that he worked for the City of Atlanta Police Department as an arson investigator. (T4-587). He testified that he responded to a house fire at 547 Chappell Road Northwest on April 12, 2022. (T4-588). He testified that when he arrived at the house, it was engulfed in flames. (T4-588). He testified that when he got to the rear of the house, he saw a man lying on the ground that was not breathing. (T4-589).

The next witness was Victoria Oehrlein. She testified that she worked for the GBI in the state crime lab. (T2- 402). She testified that she was a forensic chemist trained in drug identification and fire debris analysis. (T4-592). She testified that she tested a sealed container with charred wood. (T4-596). She testified that she did not find the presence of an ignitable liquid. (T4-597).

Sherwayne Douglas testified for the State. He testified that he was employed at Atlanta Fire and Rescue Department in the fire investigations department. (T4-613). He testified that on April 12, 2022, he responded to a fire at 547 Chappell Road Northwest. (T4-630). He testified that he noticed heavy charring on the front side of the house. (T4-631). He testified that as he went from the front of the house to the back of the house, he observed smoke damage. (T4-632). He testified that there was no burn damage to the rear of the building. (T4-632). He testified that there was heavy smoke damage throughout the structure. (T4-632).

He testified that there was so much smoke damage in the house that it was incapable of sustaining human life. (T4-633). He ruled out an electrical box on the front porch as the source of the fire because there was no damage to it. (T4-639). He testified that it appeared that the fire originated on the front porch. (T4-637). He ruled out a gas leak as the source of the fire. (T4-643-644). He testified that everything told him that the fire initiated on the front porch and not inside of the house. (T4-645). His ultimate finding was that the fire was incendiary and that the ignition source was brought to the location by a person. (T4-654).

He testified that he talked to Mr. Lovelace who mentioned the Appellant's name and told him that they had a fight that same day. (T4-656). He testified that Mr. Lovelace also told him that he found evidence in the field besides his house. (T4-656). He testified that he saw two bottles that appeared to be Molotov cocktails. (T4-656). He testified that he also found a bottle with some kind of liquid inside. (T4-657). He testified that he took this bottle for testing and that it was positive for ignitable liquid. (T4-658).

He testified that he also talked to the Appellant. (T4-661-662). He testified that she told him that she had spent that day with Mr. Lovelace. (T4-662). He testified that she told him that Lovelace took her shopping and to get her hair done. (T4-662-663). He testified that she told him that a fight occurred. (T4-663). He testified that she told him that Mr. Lovelace punched her in the face and busted her lip. (T4-663). He testified that she told him that she tried to run him over with her car. (T4-663). He testified that she told him that she wanted to go back and get her things from Chappell Road during the daytime. (T4-663). He testified that she told him that Mr. Lovelace threw gas on her. (T4-664). He testified that he had never mentioned gasoline to her. (T4-664).

On cross-examination, Officer Douglas testified that nothing in any of the bottles found was linked to the Appellant. (T6-746; T6-747).[3] He testified that there were no broken bottles found at the origin of the fire. (T6-747). He testified that there were no bottles in the debris on the porch. (T6-747). He testified that he didn't find any evidence of burnt paper or rags in the sample of debris taken from the porch. (T6-747). He testified that he did not find glass in the sample. (T6-747). He testified that there was no direct evidence that a Molotov cocktail was the ignition source in the fire. (T6-747). He testified that only one bottle had ignitable liquid, a Seagram's bottle. (T6-746).

The state's next witness was Scott Demeester. He testified that he worked for the City of Atlanta Police Department. (T6-756). He testified that he was a detective that worked in the homicide unit. (T6-757). He testified that he was assigned to the homicide investigation that occurred at 547 Chappell Road Northwest. (T6-757). He testified that he met with Captain Douglas who provided him with statements he obtained, cell phone records, GPS location information, and background histories on the

[3] T6 represents Volume 4 of the trial transcripts on record. The number following T6 represents the page number of the transcript volume.

individuals involved in the case. (T6-758).

He testified that he used license plate reader software to do a search for Appellant's vehicle. (T6-765). He testified that this license plate capture showed that the van was traveling towards the Chappell Road address that evening. (T6-769).

He testified that he obtained the tag number and vehicle description for Mr. Lovelace. (T6-782-783). He testified that he ran that license plate through the license plate reading camera system. (T6-783). He testified that the vehicle was not captured on any license plate reading camera in the city of Atlanta around the time of the fire. (T6-783).He testified that he also reviewed cell phone records for both Mr. Lovelace and the Appellant. (T6-784).

He testified that all relevant times, the cell phone records of Mr. Lovelace showed that he did not leave Clayton County. (T6-803).

He testified that with the combination of the cell phone records, ankle monitor results, and license plate reading cameras, his expert opinion was that the Appellant's vehicle was traveling towards the direction of Chapel Road at 12:55 a.m.; that she stopped for 7 minutes at the Chevron gas station at 1739 Martin Luther King Boulevard; and that

she traveled North to 547 Chapel Road, where her ankle monitor was there for five (5) minutes and then left two (2) minutes before the house fire was reported to 911. (T6-805).

He testified on cross-examination that he did not have any evidence that the Appellant purchased anything from the gas station. (T6-811). He testified that he didn't locate any Seagram's alcoholic beverage bottles in her possession. (T6-811-812). He testified that no one actually saw the Appellant set fire to the house. (T6-812).

The Appellant testified at trial. She testified that April 11th was her birthday. (T6-831). She testified met with James Lovelace on that day. (T6-833). She testified that they went out to breakfast, did some shopping, and got her hair and nails done. (T6-833). She testified that before she met with him she had about $300 in birthday money on her. (T6-837).

She testified that she realized later that day that the money that she had was gone. (T6-838). She testified that she asked him if he had seen her money and that he immediately begin to curse and scream at her. (T6-838). She testified that the argument eventually became physical after he reached to her window and punched her. (T6-839). She testified that she went to his house to get her belongings that she left there and to see if the

money was there. (T6-842). She testified that she stopped to get gas on the way there. (T6-843). She testified that when she got there that was someone on the other side of the house yelling for James and telling him to come outside. (T6-855). She testified that the person eventually came up to her and threatened her. (T6-856). She testified that the person then threw something at her. (T6-856). She testified that she left and went to another gas station and realized that what she was wearing smelled like it had fumes on it. (T6-857). She testified that she then went to her hotel. (T6-857).

ENUMERATION OF ERRORS

I. **The trial court committed plain error and violated O.C.G.A. 17-8-57, by assuming the position of the prosecutor, when in response to repeated objections by defense counsel with respect to questions that were asked and answered, the trial court responded with "I mean "we" are trying to get the story straight, so" and again in response to additional questioning on the same subject and another objection, the court responded, " I'm going to let him try to get to the bottom of this." T6-897; T6-898; T6-899; T6-900-901.**

II. **Trial counsel was ineffective for failing to object to the trial court's improper comments in violation of O.C.G.A. § 17-8-57.**

ARGUMENT

I. **The trial court committed plain error and violated O.C.G.A. 17-8-57, by assuming the position of the prosecutor, when in response to repeated objections by defense counsel with respect to questions that were asked and answered, the trial court**

responded with "I mean "we" are trying to get the story straight, so" and again in response to additional questioning on the same subject and another objection, the court responded, " I'm going to let him try to get to the bottom of this." (T6-897; T6-898; T6-899; T6-900-901).

OCGA § 17-8-57 provides: It is error for any judge in any criminal case, during its progress or in his charge to the jury, to express or intimate his opinion as to what has or has not been proved or as to the guilt of the accused. Should any judge violate this Code section, the violation shall be held by the Supreme Court or Court of Appeals to be error, the decision in the case reversed, and a new trial granted in the court below with such directions as the Supreme Court or Court of Appeals may lawfully give. OCGA § 17-8-57; *Callaham v. State*, 305 Ga. App. 626, 627 (2010).

The purpose of this statute, at least in part, "is to prevent the jury from being influenced by any disclosure of the judge's opinion regarding a witness's credibility. *Callaham at 627.* The credibility of a witness is a material fact in every case, and any questions of credibility are for the jury to decide. *Id.* See also *Hubbard v. Hubbard*, 277 Ga. 729, 730 (2004) (reversing after trial court stated his favorable opinion of the witness, bolstering her credibility and thereby "influencing an issue that is solely for the jury to determine"). "Therefore, anything which tends to uphold, to support, to

disparage, or to lower the character and the resulting credibility of the witness is vitally connected with the facts of the case. *Id.*

During the cross-examination of Appellant Blackwell, counsel for the State repeatedly questioned Appellant Blackwell regarding her statements to Detective Demeester about the whereabouts of Jamese Lovelace on the night of the fire. Specifically, she was questioned multiple times as to whether she told the Detective that Mr. Lovelace followed her from Clayton County; as to whether she told him that Mr. Lovelace was present at the scene; and as to whether she told him that Mr. Lovelace threw a gas can at her. (T6-897; T6-898; T6-899). Each time, the Appellant stated that she did make those statements and admitted that she was not truthful. (T6-897; T6-898; T6-899). Trial counsel objected to this line of questioning on the basis that the questions were asked and answered three times. (T6-899). The following is a summary of the discussion that transpired:

MS. HOAGUE: Objection, Your Honor -

THE WITNESS: I did.

MS. HOAGUE: He's asked her this three times.

THE COURT: I mean, I think we're trying to get the story straight, so.

(Simultaneous speakers.)

THE WITNESS: I did. Yeah. We had already got it

straight --

THE COURT: -- attitude.

THE WITNESS: We did get it straight. (T6-899).

After this discussion, counsel for the State was allowed to continue the same line of questioning, again prompting an objection by defense counsel, to which the court replied, "I'm going to let him try to get to the bottom of this." (T6-901).

In this particular case, the trial court's rulings and comments as discussed above tended to improperly disparage the Appellant's character and intimate the court's opinion on her credibility in three ways: 1) by allowing the prosecutor to repeatedly ask the same questions, the trial court allowed the prosecutor to unnecessarily highlight the Appellant's prior untruthfulness, casting excessive doubt on Appellant's other testimony at trial; 2) by intimating that "we" are trying to get this story straight in response to the defense's objection, the trial court aligned itself with the prosecution and appeared to take a prosecutorial role in the trial of the case undercutting Appellant's credibility; and 3) by commenting on the

Appellant's "attitude," the trial court cast the Appellant in an even more negative light. In so doing, the trial court violated O.C.G.A. § 17-8-57, thereby warranting a reversal.

II. Trial counsel was ineffective for failing to object to the trial court's improper comments in violation of O.C.G.A. § 17-8-57.

A claim of ineffective assistance of counsel is a mixed question of law and fact. *State v. Crapp*, 317 Ga. App. 744, 745 (2012). The proper standard of review requires that the appellate court accept the trial court's factual findings unless clearly erroneous, but the appellate court independently applies the legal principles to the facts. *Id.*

To prevail on a claim of ineffective assistance of counsel, a defendant must prove both deficient performance of counsel and prejudice from the deficient performance. *Bell v. State,* 294 Ga. 443, 445 (2014). To prove that the performance was deficient, a defendant must show that his lawyer performed his or her duties at trial in an objectively unreasonable way, considering all the circumstances, and in the light of prevailing professional norms. *Id.* To show prejudice by this performance, a defendant must show a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different. *Id.* A reasonable

probability is a probability sufficient to undermine confidence in the outcome.

O.C.G.A. § 17-8-57(b) provides a caveat with respect to violations of the statute which may not be deemed to affect a substantial right of the defendant. It states:

> "Except as provided in subsection (c) of this Code section, failure to make a timely objection to an alleged violation of paragraph (1) of subsection (a) of this Code section shall preclude appellate review, unless such violation constitutes plain error which affects substantive rights of the parties. Plain error may be considered on appeal even when a timely objection informing the court of the specific objection was not made, so long as such error affects substantive rights of the parties." O.C.G.A. § 17-8-57.

As noted above, the trial court's rulings and comments tended to improperly disparage the Appellant's character and intimated the court's opinion on her credibility. To the extent that these comments are found not to constitute plain error, trial counsel was ineffective for failing to object, because the failure to do constitutes a waiver under the statute.

Trial counsel in the case was Elizabeth Hoague. (T8-1044).[4] She testified that she had been practicing law since 2014.(T8-1044). Testify that at the time she tried the case she was aware that I was improper for the court to comment upon the evidence or the credibility of a witness.(T8-1048). She testified, however, that she was not sure if this particular comment constituted a comment upon the evidence of or the credibility of witness. (T8-1048).

This failure to object was objectively unreasonable and considering that this was a highly circumstantial case that depended primarily upon witness credibility, the failure to object to these statements severely prejudiced the Appellant's right to a fair trial. As a result, a reversal is warranted.

CONCLUSION

For the foregoing reasons, Appellant respectfully moves the Court to vacate the conviction and sentence of Appellant.

Respectfully submitted this 13th day of July 2026.

This submission does not exceed the word-count limit imposed by

[4] T8 represents the Motion for New Trial hearing transcript. The number following T8 represents the page number of the transcript.

Rule 20.

/s/ Shantay D. Hightower
Shantay D. Hightower
Ga. Bar No. 156954
Law Office of Shantay D. Hightower
P.O. Box 2437
Valdosta, Georgia 31604
(229) 464-9532
hightowerlaw@yahoo.com

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished by electronic service to:

Elizabeth Brock, Esq.
Assistant Attorney General
Georgia Dept. of Law
40 Capitol Square S.W.
Atlanta, GA 303341-1300
ebrock@law.ga.gov

Alex Bernick. Esq.
Assistant District Attorney
Fulton County District Attorney's Office
136 Pryor St SW
Atlanta, Ga 30303
Alex.bernick@fultoncountyga.gov

Respectfully submitted this 13th day of July 2026.

/s/ Shantay D. Hightower
Counsel for Alice Blackwell
Ga. Bar No. 156954
Law Office of Shantay D. Hightower
P.O. Box 2437
Valdosta, Georgia 31604
(229) 464-9532
hightowerlaw@yahoo.com