



2003

Recent Developments: Thomas v. State: Evidence of a Defendant's Refusal to Provide a Blood Sample Is Inadmissible to Show Consciousness of Guilt

Gage Lester

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

Recommended Citation

Lester, Gage (2003) "Recent Developments: Thomas v. State: Evidence of a Defendant's Refusal to Provide a Blood Sample Is Inadmissible to Show Consciousness of Guilt," *University of Baltimore Law Forum*: Vol. 33 : No. 2 , Article 10.
Available at: <http://scholarworks.law.ubalt.edu/lf/vol33/iss2/10>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

*Thomas v. State:***Evidence of a Defendant's Refusal to Provide a Blood Sample is Inadmissible to Show Consciousness of Guilt**

By: Gage Lester

The Court of Appeals of Maryland held evidence of a defendant's refusal to provide a blood sample was inadmissible to show consciousness of guilt. *Thomas v. State*, 372 Md. 342, 812 A.2d 1050(2002). In so holding, the court clearly stated when and how consciousness of guilt evidence can be used to show an inference of guilt. *Id.*

Garrison Thomas ("Thomas") was convicted of killing Beverly Renee Mitchell ("Mitchell"). Her body was found in Charles County on March 23, 1995 and on March 24, 1995, the police found a witness, Novella Harris ("Harris"), and Mitchell's car in Southeast Washington, D.C. Harris informed police that Thomas came to her house, on March 23, 1995, driving Mitchell's car seeking narcotics. Additionally, Harris informed police she saw Thomas wipe the car down, attempt to discard the keys in two different locations, and eventually attempt to set fire to the car.

On June 25, 1998, over three years after Mitchell was murdered and with the investigation stalling, the police decided to attempt to collect hair and blood samples from Thomas. The police met Thomas at his residence and informed him he was required to give them hair and blood samples. Thomas

resisted, stating, "you ain't getting it." He was forcibly restrained while a nurse drew blood. Eventually, Thomas provided police with a hair sample and a second blood sample. The laboratory examination of Thomas' blood excluded him as a source of the blood at the crime scene.

Thomas' trial began in 1999 in the Circuit Court for Charles County. Thomas attempted to preclude the state from introducing evidence he resisted police when they tried to collect a sample of his blood. The trial court decided to allow the evidence, and Thomas was convicted and sentenced to life imprisonment for felony murder. Thomas noted a timely appeal to the court of special appeals. The court of special appeals affirmed the decision and the court subsequently granted Thomas' petition for writ of certiorari.

The court began its analysis by examining whether the fact Thomas resisted police when they tried to obtain a blood sample was admissible in evidence as consciousness of guilt. *Id.* at 350, 812 A.2d at 1055. The fundamental test in assessing admissibility is relevance. *Id.* (citing Maryland Rule 5-402). Relevant evidence is evidence "having any tendency to make the existence of any fact that

is of consequence to the determination of the action more probable or less probable than it would be without the evidence." *Thomas*, 372 Md. at 350-51, 812 A.2d at 1055 (quoting Maryland Rule 5-401).

A person's post-crime behavior, called consciousness of guilt, is sometimes admissible as circumstantial evidence from which guilt may be inferred. *Id.* at 351, 812 A.2d at 1055. This evidence is often considered because the commission of a crime can be expected to leave some mental traces on the criminal. *Id.* Similar to all circumstantial and direct evidence, evidence of consciousness of guilt must have a probative value that outweighs its prejudicial effect on the defendant and in addition, it must be relevant. *Id.*

The court determined, in order for Thomas' consciousness of guilt to be considered relevant, four inferences would have to be drawn. *Id.* at 356, 812 A.2d at 1058. First, Thomas' resistance to the blood test demonstrated a desire to conceal evidence. *Thomas*, 372 Md. at 356, 812 A.2d at 1058. Second, a connection must be formed between Thomas' desire to conceal evidence and his consciousness of guilt. *Id.* Third, his consciousness of guilt was

Recent Developments

caused by the murder of Mitchell. *Id.* Finally, a connection between a consciousness of guilt of the murder of Mitchell, and actual guilt of the murder must be made. *Id.*

Using these inferences, the court concluded there was no evidence in the record for a jury to find any alleged consciousness of guilt on Thomas' part connected to the murder of Mitchell. *Id.* The court also noted there was no evidence that Thomas was aware that the police were testing his blood in connection with the murder investigation of Mitchell. *Thomas*, 372 Md. at 357, 812 A.2d at 1059. As a result, the court concluded there were numerous other logical inferences that could be drawn from a defendant refusing to give blood. *Id.* Therefore, the court reversed the trial court's decision and held the evidence was inadmissible. *Id.*

Finally, the court addressed Thomas' inability, during pretrial discovery, to obtain the psychiatric records of the state's key witness, Harris. *Id.* The court explained Thomas failed to demonstrate likelihood that the records contained any relevant information. *Id.* As a result the court agreed with the court of special appeals and held the psychological records were not discoverable. *Thomas*, 372 Md. at 358-59, 812 A.2d at 1059-60.

This case demonstrates the tremendous effect that circumstantial evidence can have on a trial. While prosecutors statewide may disagree with this decision, the holding in this case is necessary in order to maintain the notion of a fair

trial for criminal defendants. Additionally, this case clearly defines the narrow circumstances when consciousness of guilt evidence is admissible in Maryland. Without this decision, limiting the admissibility of consciousness of guilt evidence, a criminal defendant may be convicted for behavior that has nothing to do with the crime with which he is charged. This is integral in the maintenance of the innocent until proven guilty standard that our justice system is founded on.

UNIVERSITY OF BALTIMORE LAW ALUMNI RESOURCE DIRECTORY

Please check any area of interest and complete the form below.

Send completed form to:
**University of Baltimore Alumni
Services**

Attn: Law Resources Directory
1304 St. Paul Street
Baltimore, Maryland 21202
fax: (410) 837-6175

e-mail: alumni@ubalt.edu

- Mentor first year law students;
- Speak to a class of students about your practice speciality;
- Judge a trial and/or appellate advocacy program;
- Participate in the EXPLOR Program;
- Serve on the Alumni Association's Law Liaison Committee;
- Serve on reunion committee; and/or
- Assist in fund raising activities for the School of Law.