No. ________

In The
Supreme Court of the United States

WALTER E. BELL,

Petitioner,

v.

THE STATE OF GEORGIA,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Court Of The State Of Georgia

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The State of Georgia by statute (O.C.G.A. § 40-6-270(a)(1)) provides generally that the driver of a vehicle involved in an accident resulting in injury or the death or in damage to a vehicle shall remain or return to the scene of the accident and identify himself.

Petitioner was the driver of an automobile involved in an incident of "road rage" that caused an accident involving death. Petitioner did not return/remain at the scene to identify himself and was convicted of violation of O.C.G.A. § 40-6-270.

The question presented is, therefore:

Under the facts of this case, was Petitioner denied the rights granted to him pursuant to the the Fifth and Fourteenth Amendments of the United States Constitution when he failed to remain/return and identify himself as the perpetrator of the act(s) causing a death?

PARTIES TO THE PROCEEDING

Walter E. Bell (Petitioner in this Court)

State of Georgia (Respondent in this Court)

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PETITION FOR WRIT OF CERTIORARI

Walter E. Bell respectfully petitions for a Writ of Certiorari to review the Judgment of the Georgia Supreme Court, the Georgia Court of last resort. The Georgia Supreme Court erroneously determined that Petitioner had not been denied his right against self-incrimination under the United States Constitution when he failed to identify himself and return/remain at the scene of an automobile accident in which he had caused a death. Petitioner was convicted, inter alia, of violation of O.C.G.A. § 40-6-270.

OPINIONS BELOW

The opinion of the Georgia Supreme Court is reported as *Bell v. State*, 292 Ga. 683 (748 S.E.2d 382) (2013) (Appendix A) and the decision of the Georgia Supreme Court denying rehearing is not reported (Appendix C).

JURISDICTION

Jurisdiction is based upon denial of rights protected by the Fifth and Fourteenth Amendments to the United States Constitution and 28 U.S.C. § 1257(a). The Georgia Supreme Court issued its decision on September 9, 2013. This Petition is timely filed within ninety days of the Georgia Supreme

Court's denial of Petitioner's Motion For Reconsideration on October 7, 2013.

STATUTORY PROVISIONS INVOLVED

O.C.G.A. § 40-6-270 provides in pertinent part:

"(a) The driver of any vehicle involved in an accident resulting in injury to or the death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or shall stop as close thereto as possible and forthwith return to the scene of the accident and shall:

(1) Give his or her name and address and the registration number of the vehicle he or she is driving;

(2) Upon request and if it is available, exhibit his or her operator's license to the person struck or the driver or occupant of or person attending any vehicle collided with;

(3) Render to any person injured in such accident reasonable assistance, including the transporting, or the making of arrangements for the transporting, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such transporting is requested by the injured person; and

> (4) Where a person injured in such accident is unconscious, appears deceased, or is otherwise unable to communicate, make every reasonable effort to ensure that emergency medical services and local law enforcement are contacted for the purpose of reporting the accident and making a request for assistance. The driver shall in every event remain at the scene of the accident until fulfilling the requirements of this subsection. Every such stop shall be made without obstructing traffic more than is necessary.
>
> (b) If such accident is the proximate cause of death or a serious injury, any person knowingly failing to stop and comply with the requirements of subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years."

Other statutory provisions involved include the remaining statutes under which Petitioner was prosecuted, Felony Murder (O.C.G.A. § 16-5-1(c), Aggravated Assault (O.C.G.A. § 16-5-21), Homicide by Vehicle (O.C.G.A. § 40-6-393), and the misdemeanor offenses of Reckless Driving (O.C.G.A. § 40-6-390) and Tampering with Evidence (O.C.G.A. § 16-10-94).

STATEMENT OF THE CASE

A. Background

Petitioner, Walter E. Bell, was convicted in the Superior Court of Forsyth County, Georgia of the felony offenses of Homicide by Vehicle (O.C.G.A. § 40-6-393), Leaving the Scene of an Accident (O.C.G.A. § 40-6-270(b)) and the misdemeanor offenses of Reckless Driving (O.C.G.A. § 40-6-390) and Tampering with Evidence (O.C.G.A. § 16-10-94).

Petitioner was acquitted of Felony Murder (O.C.G.A. § 16-5-1(c)) and Aggravated Assault (O.C.G.A. § 16-5-21).

B. The Proceedings

This appeal is from the Superior Court of Forsyth County, Georgia following verdicts of Guilty in a jury trial. Petitioner was accused by Indictment by the Grand Jury of Forsyth County, Georgia with the Felony offenses of Felony Murder (O.C.G.A. § 16-5-1(c)), Aggravated Assault (O.C.G.A. § 16-5-21), Homicide by Vehicle (O.C.G.A. § 40-6-393), Leaving the Scene of an Accident (O.C.G.A. § 40-6-270(b)) and the misdemeanor offenses of Reckless Driving (O.C.G.A. § 40-6-390) and Tampering with Evidence (O.C.G.A. § 16-10-94).

Petitioner was acquitted of Felony Murder (O.C.G.A. § 16-5-1(c)) and Aggravated Assault (O.C.G.A. § 16-5-21).

Trial began on March 26, 2012 (T., Vol. I). Appellant was acquitted of Felony Murder (Count I) and Aggravated Assault (Count II) (R. 112-113) and Appellant appeals from the guilty verdict on the remaining counts on March 29, 2012 (R. 112-113) and the sentence (R. 124-127) (12 years in prison followed by 8 years on probation) thereafter pronounced and filed on April 27, 2012. Motion For New Trial (R. 130-143) was filed on April 30, 2012 and thereafter denied by Order filed of record on September 4, 2012 (R. 162-164). Notice of Appeal (R. 105-107) was filed September 11, 2012 and amended on November 28, 2012 (R. 1-3).

Facts presented at trial and relevant to the question presented show the following:

On November 8, 2010, Appellant was driving north in Forsyth County on Georgia Highway 400 when he had an encounter with an automobile driven by Ms. Jenny Gutierrez. The State alleged that as a result of that encounter (alleged "road rage") Mr. Bell's actions had caused Ms. Gutierrez's automobile to leave the roadway resulting in her death when her vehicle struck a tree. Defendant fled the scene and was arrested some time later.

The Georgia Supreme Court issued its decision on September 9, 2013. The Georgia Supreme Court denied Petitioner's properly submitted Motion for Reconsideration to the Georgia Supreme Court on October 7, 2013. This Petition is timely filed within ninety days of the Georgia Supreme Court's denial of

Petitioner's Motion For Reconsideration on October 7, 2013.

REASONS FOR GRANTING THE PETITION

Petitioner was criminally convicted and sentenced for not remaining/returning to the scene of an accident and identifying himself as the driver of the vehicle that caused a death.

The Georgia Supreme Court relied upon *California v. Byers*, 402 U.S. 424 (91 S. Ct. 1535; 29 L. Ed. 2d 9) (1971) in which a similar claim was made but denied. The Georgia Supreme Court did not consider the subsequent case from this Court of *Hiibel v. Sixth Judicial District Court of Nevada,* 542 U.S. 177 (124 S. Ct. 2451; 159 L. Ed. 2d 292) (2004) wherein this court observed:

> "The Fifth Amendment prohibits only compelled testimony that is incriminating. See *Brown v. Walker*, 161 U.S. 591, 598, 40 L. Ed. 819, 16 S. Ct. 644 (1896) (noting that where "the answer of the witness will not directly show his infamy, but only tend to disgrace him, he is bound to answer"). A claim of Fifth Amendment privilege must establish
>
> > "'reasonable ground to apprehend danger to the witness from his being compelled to answer. . . . [T]he danger to be apprehended must be real and appreciable, with reference to the ordinary operation of law in the

> ordinary course of things, – not a danger of an imaginary and unsubstantial character, having reference to some extraordinary and barely possible contingency, so improbable that no reasonable man would suffer it to influence his conduct.'" Id., at 599-600, 40 L. Ed. 819, 16 S. Ct. 644 (quoting *Queen v. Boyes*, 1 B. & S. 311, 330, 121 Eng. Rep. 730, 738 (Q. B. 1861) (Cockburn, C. J.)).

As we stated in *Kastigar v. United States*, 406 U.S. 441, 445, 32 L. Ed. 2d 212, 92 S. Ct. 1653 (1972), **the Fifth Amendment privilege against compulsory self-incrimination "protects against any disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used.**" Suspects who have been granted immunity from prosecution may, therefore, be compelled to answer; with the threat of prosecution removed there can be no reasonable belief that the evidence will be used against them. See id., at 453, 32 L. Ed. 2d 212, 92 S. Ct. 1653.

In this case petitioner's refusal to disclose his name was not based on any articulated real and appreciable fear that his name would be used to incriminate him, or that it "would furnish a link in the chain of evidence needed to prosecute" him. *Hoffman v. United States*, 341 U.S. 479, 486, 95 L. Ed. 1118, 71 S. Ct. 814 (1951). As best we can

tell, petitioner refused to identify himself only because he thought his name was none of the officer's business. Even today, petitioner does not explain how the disclosure of his name could have been used against him in a criminal case. While we recognize petitioner's strong belief that he should not have to disclose his identity, the Fifth Amendment does not override the Nevada Legislature's judgment to the contrary absent a reasonable belief that the disclosure would tend to incriminate him.

The narrow scope of the disclosure requirement is also important. One's identity is, by definition, unique; yet it is, in another sense, a universal characteristic. Answering a request to disclose a name is likely to be so insignificant in the scheme of things as to be incriminating only in unusual circumstances. See *Baltimore City Dep't of Social Servs. v. Bouknight*, 493 U.S. 549, 555, 107 L. Ed. 2d 992, 110 S. Ct. 900 (1990) (suggesting that "fact[s] the State could readily establish" may render "any testimony regarding existence or authenticity [of them] insufficiently incriminating"); cf. *California v. Byers*, 402 U.S. 424, 432, 29 L. Ed. 2d 9, 91 S. Ct. 1535 (1971) (opinion of Burger, C. J.). In every criminal case, it is known and must be known who has been arrested and who is being tried. Cf. *Pennsylvania v. Muniz*, 496 U.S. 582, 601-602, 110 L. Ed. 2d 528, 110 S. Ct. 2638 (1990) (principal opinion of Brennan, J.). Even witnesses who plan to invoke the Fifth Amendment privilege answer when

> their names are called to take the stand. **Still, a case may arise where there is a substantial allegation that furnishing identity at the time of a stop would have given the police a link in the chain of evidence needed to convict the individual of a separate offense. In that case, the court can then consider whether the privilege applies, and, if the Fifth Amendment has been violated, what remedy must follow. We need not resolve those questions here**." (Emphasis added.)

Petitioner's situation presents the situation of the " . . . substantial allegation that furnishing identity at the time of a stop would have given the police a link in the chain of evidence needed to convict the individual of a separate offense."

In fact, Petitioner was convicted for not coming forward and furnishing the link of identity.

The issue set forth herein is of critical importance as it impacts one of the most fundamental rights in American jurisprudence.

The Fifth Amendment of the United States Constitution specifies that no person shall be compelled in a criminal case to be a witness against himself.

Based upon the above reasoning and the foregoing authority Petitioner was unlawfully convicted for not incriminating himself and such actions on the

part of the State of Georgia so infected the trial process that not only should Petitioner's conviction for Leaving the Scene of the Accident be set aside but the remaining convictions as well.

CONCLUSION

For the above and forgoing reasons the Petition for A Writ of Certiorari should be granted.

Respectfully submitted,

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January 3, 2014

APPENDIX A

In the Supreme Court of Georgia.

Decided: September 9, 2013

S13A0703. BELL v. THE STATE.

MELTON, Justice.

Following a jury trial, Walter E. Bell was found guilty of first degree vehicular homicide, reckless driving, hit and run, and tampering with evidence in connection with the death of Jenny McMillan-Gutierrez.[1] On appeal Bell contends, among other things, that OCGA §§ 40-6-270(a) (hit and run) and 40-8-76.1(d) (use of safety belts in passenger vehicles) are unconstitutional. For the reasons that follow, we affirm.

1. Viewed in the light most favorable to the jury's verdict, the record reveals that, on July 9, 2011,

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[1] On November 15, 2011, Bell was indicted for felony murder (with aggravated assault as the underlying felony), aggravated assault, first degree vehicular homicide, reckless driving, leaving the scene of an accident (hit and run), and tampering with evidence. Following a March 26-29, 2012 jury trial, Bell was acquitted of felony murder and aggravated assault, but was found guilty on all remaining charges. The trial court sentenced Bell to twenty years (fifteen years for vehicular homicide, and five consecutive years for leaving the scene of an accident), with twelve to serve. The reckless driving count was merged into the vehicular homicide count, and the tampering with evidence count was merged with the hit and run count, for sentencing purposes. Bell filed a motion for new trial on April 30, 2012, which was denied on September 4, 2012. Bell filed a timely notice of appeal on September 11, 2012, and his appeal was docketed in this Court for the April 2013 Term and orally argued on April 1, 2013.

Bell was speeding and weaving in and out of traffic on northbound Georgia 400 in a rented Mercedes Benz, when he abruptly changed lanes and cut off a car being driven by McMillan-Gutierrez. Bell's actions caused McMillan-Gutierrez to lose control of her vehicle and crash her car into a cluster of trees off the side of the highway. Bell sped away from the scene of the accident and changed to a different rental car, and McMillan-Gutierrez died from her injuries.

The evidence was sufficient to enable a rational trier of fact to find Bell guilty of all of the crimes for which he was convicted beyond a reasonable doubt. *Jackson v. Virginia,* 443 U.S. 307 (99 SCt 2781, 61 LE2d 560) (1979).

2. Bell contends that OCGA § 40-8-76.1(d), which deals with the use of safety belts in passenger vehicles, is unconstitutional.[2] However, because the trial court never ruled on the constitutionality of

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[2] Prior to trial, the State moved in limine to exclude any evidence that McMillan-Gutierrez was not wearing a seatbelt at the time of the accident and to exclude any evidence that the air bag in McMillan-Gutierrez's car did not deploy during the accident. In response, Bell filed a motion challenging the constitutionality of OCGA § 40-8-76.1(d), arguing that this statute would have served as the basis for any ruling to exclude evidence of the victim not wearing a seatbelt and her air bag not deploying during the accident. The trial court excluded the evidence, but specifically stated in a written order on Bell's constitutional challenge that "it [was] not necessary to address [Bell's] constitutional challenge [to OCGA § 40-8-76.1(d)] because the State ha[d] not sought to limit the introduction of seatbelt testimony pursuant to [that] statute."

OCGA § 40-8-76.1(d) below, Bell has presented nothing for this Court to review on appeal. See, e.g., *Davis v. Harpagon Co., LLC,* 283 Ga. 539, 542(4) (661 SE2d 545) (2008) ("[W]e do not reach constitutional questions which have not been considered and distinctly ruled on by the trial court").

3. Bell further argues that Georgia's hit and run statute, OCGA § 40-6-270(a), is unconstitutional. Specifically, he claims that the statutory requirements that one must stop at the scene of an accident and identify oneself[3] violate a person's right against self-incrimination under both the U.S. and the Georgia Constitutions. Bell is incorrect.

With respect to the U.S. Constitution, this issue has been decided adversely to Bell by the United States Supreme Court in *California v. Byers,* 402 U.S. 424 (91 SCt. 1535, 29 LE2d 9) (1971). In *Byers,* the Supreme Court analyzed a California hit-and-run statute with nearly identical language to that of the Georgia statute at issue here, and concluded that the requirements that a driver stop at the scene of an

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[3] OCGA § 40-6-270(a) states in relevant part that

> [t]he driver of any vehicle involved in an accident resulting in injury to or the death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or shall stop as close thereto as possible and forthwith return to the scene of the accident and shall:
>
> (1) Give his or her name and address and the registration number of the vehicle he or she is driving[.]

accident and identify himself or herself did not violate that person's constitutional right against self incrimination. Indeed, "the mere possibility of incrimination is insufficient to defeat the strong policies in favor of a disclosure called for by [hit-and-run] statutes like the [Georgia statute at issue here and the California statute] challenged [in *Byers*]." Id. at 428(1). In this connection, like the statute at issue in *Byers,* Georgia's hit-and run statute does not confront an individual with substantial hazards of self-incrimination through requiring certain disclosures, as the statute is not "directed at a highly selective group inherently suspect of criminal activities." Id. at 429(1). Rather,

> the statute is essentially regulatory, not criminal . . . [and] is directed at all persons – here all persons who drive automobiles in [Georgia]. This group, numbering as it does in the millions, is so large as to render [OCGA § 40-6-270(a)] a statute 'directed at the public at large.' It is difficult to consider this group as either 'highly selective' or 'inherently suspect of criminal activities.' Driving an automobile . . . is a lawful activity. Moreover, it is not a criminal offense under [Georgia] law to be a driver 'involved in an accident.' An accident may be the fault of others; it may occur without any driver having been at fault. No empirical data are suggested in support of the conclusion that there is a relevant correlation between being a driver and criminal prosecution of drivers. So far as any available information instructs us, most accidents occur without creating criminal liability even if one or both of the drivers

> are guilty of negligence as a matter of tort law. . . . [D]isclosures with respect to automobile accidents simply do not entail the kind of substantial risk of self-incrimination involved in [cases where such risks are present]. Furthermore, the statutory purpose is noncriminal and self-reporting is indispensable to its fulfillment.

(Citations and punctuation omitted.) Id. at 430-431(1).

Moreover,

> [e]ven if we were to view the statutory reporting requirement as incriminating in the traditional sense, in our view it would be [an] 'extravagant' extension of the privilege . . . to hold that it is testimonial in the Fifth Amendment sense. Compliance with [OCGA § 40-6-270(a)] requires two things: first, a driver involved in an accident is required to stop at the scene; second, he is required to give his name and address [and vehicle registration number]. The act of stopping is no more testimonial – indeed less so in some respects – than requiring a person in custody to stand or walk in a police lineup, to speak prescribed words, or to give samples of handwriting, fingerprints, or blood. Disclosure of name and address [and vehicle registration number] is an essentially neutral act. Whatever the collateral consequences of disclosing name and address [and vehicle registration number], the statutory purpose is to

> implement the state police power to regulate use of motor vehicles.

Id. at 431-432(2).

Accordingly, Georgia's hit-and-run statute does not violate one's right against self incrimination under the United States Constitution. *Byers,* supra. Similarly, because the United States Supreme Court's analysis in *Byers* shows that the acts of stopping at the scene of an accident and providing the information required under OCGA § 40-6-270(a) do not present substantial hazards of self-incrimination by being directed at a highly selective group inherently suspect of criminal activities – even when considered under the more liberal self-incrimination standards of Georgia[4] – we find no violation of Bell's right against self incrimination under the Georgia Constitution.

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[4] As this Court noted in *Muhammad v. State,* 282 Ga. 247, 250(2) n.1 (647 SE2d 560)(2007):

> Similar to the right against self-incrimination guaranteed by the Fifth Amendment to the United States Constitution, Georgia's right against self-incrimination is directed towards prohibiting the State's use of coercion or compulsion to be a witness against oneself. While the provision under the federal constitution has long been limited to 'testimony,' the Georgia provision has been construed liberally to limit the State from forcing an individual to affirmatively produce any 'evidence, oral or real,' regardless of whether or not it is testimonial.

(citations and punctuation omitted).

4. Bell claims that the trial court erred in sentencing him for felony vehicular homicide instead of misdemeanor vehicular homicide, because, in his view, the State only proved that he was guilty of aggressive driving rather than reckless driving as the underlying offense to support his vehicular homicide conviction. See OCGA §§ 40-6-393(a) (person who causes death of another through violation of OCGA § 40-6-390(a) (reckless driving) "commits the offense of homicide by vehicle in the first degree and, upon conviction thereof, shall be punished by imprisonment for not less than three years nor more than 15 years") and (c) ("Any person who causes the death of another person, without an intention to do so, by violating [OCGA § 40-6-397 (aggressive driving) or] any provision of this title other than[, among other sections, OCGA § 40-6-390(a)] . . . commits the offense of homicide by vehicle in the second degree when such violation is the cause of said death and, upon conviction thereof, shall be punished as provided in Code Section 17-10-3 [dealing with misdemeanors]). However, as explained in Division 1, supra, the evidence was sufficient for the jury to find Bell guilty of all of the crimes for which he was convicted, including first degree vehicular homicide based on reckless driving. Accordingly, this enumeration is without merit.

5. Finally, Bell contends that, because the trial court merged the tampering with evidence count into the hit and run count for sentencing purposes, and because the indictment was unclear as to whether the tampering related to first or second degree vehicular

homicide, the trial court erred in sentencing him for felony hit and run as opposed to misdemeanor tampering with evidence. Bell's argument fails.

Assuming without deciding that the trial court was required to merge these two counts at all,[5] there is nothing confusing about the indictment and the fact that the tampering with evidence count related to first degree vehicular homicide. See, e.g., *Hester v. State,* 283 Ga. 367, 368(2) (659 SE2d 600) (2008) ("The indictment must be read as a whole") (citation omitted). Nor was there anything improper about the trial court sentencing Bell under the surviving felony hit and run count after merging the lesser tampering count into it for sentencing purposes. See *White v. State,* 287 Ga. 713, 719 (699 SE2d 291) (2010) (Where a defendant "tamper[s] with evidence in his own case and not to prevent the apprehension or prosecution of anyone other than himself, he [is] guilty of misdemeanor tampering"); *Reed v. State,* 318 Ga. App. 412, 415(2) (734 SE2d 113) (2012) ("When the same conduct establishes the commission of more than one crime, a defendant may be prosecuted and found guilty of each crime but may not be sentenced for both. When the jury finds the defendant guilty of both

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[5] Indeed, the State contends that it erroneously conceded below that the counts should have merged under the now-disavowed "actual evidence" test (see *Drinkard v. Walker,* 281 Ga. 211 (636 SE2d 530) (2006)), and, under the applicable "required evidence" test, the counts should not have merged. See id.

crimes, the lesser offense merges into the greater offense and the court sentences on the greater offense only") (citation and punctuation omitted).

Judgment affirmed. All the Justices concur.

APPENDIX B

IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	*	
v.	*	
	*	Case No. 11CR-0561
WALTER E. BELL,	*	(Filed Mar. 26, 2012)
Defendant.	*	

ORDER ON DEFENDANT'S CHALLENGE TO CONSTITUTIONALITY OF O.C.G.A. § 40-6-270[1]

On March 26, 2012 Defendant filed his Challenge To Constitutionality Of O.C.G.A. § 40-6-270. Both parties presented oral argument. After consideration of the file in its entirety, the arguments of counsel and applicable law, the Court finds as follows:

O.C.G.A. § 40-6-270(a) provides:

> (a) The driver of any vehicle involved in an accident resulting in injury to or the death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or shall stop as close thereto as possible and forthwith return to the scene of the accident and shall:

[1] The motion only contends that subsection (a) is unconstitutional.

> (1) Give his or her name and address and the registration number of the vehicle he or she is driving;
>
> (2) Upon request and if it is available, exhibit his or her operator's license to the person struck or the driver or occupant of or person attending any vehicle collided with;
>
> (3) Render to any person injured in such accident reasonable assistance, including the transporting, or the making of arrangements for the transporting, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such transporting is requested by the injured person; and
>
> (4) Where a person injured in such accident is unconscious, appears deceased, or is otherwise unable to communicate, make every reasonable effort to ensure that emergency medical services and local law enforcement are contacted for the purpose of reporting the accident and making a request for assistance.
>
> The driver shall in every event remain at the scene of the accident until fulfilling the requirements of this subsection. Every such stop shall be made without obstructing traffic more than is necessary.

Defendant contends that the statute violates his Fifth Amendment rights under the United States Constitution and Article 1, Section 1, Paragraph 16 of the

Georgia Constitution because the statute requires him to incriminate himself.

In *California v. Byers,* 402 U.S. 424, 91 S.Ct. 1535 (1971), the United States Supreme Court held that California's statute requiring a motorist to stop at the scene of a motor vehicle accident and supply a name and address did not violate the defendant's Fifth Amendment right against self-incrimination. The Court noted the statute to be essentially a self-reporting requirement on the public at large, as distinguished from a "highly selective group inherently suspect of criminal activities." The court further found the requirement to remain at the scene of an accident and to give a name and address to be a non-testimonial neutral act.

Similarly, O.C.G.A. § 40-6-270(a) is not aimed at a highly selective group inherently suspect of criminal activities. To the contrary, the statute applies to the entire motoring public, and applies to the many traffic accidents which have no criminal culpability whatsoever. Additionally, the information which must be provided under the statute is essentially neutral, not testimonial.

WHEREFORE, Defendant's Challenge To Constitutionality Of O.C.G.A. § 40-6-270 is hereby DENIED.

So ORDERED, this 26th day of March, 2012.

/s/ David L. Dickinson
David L. Dickinson, Judge
Superior Court of Forsyth County
Bell-Forsyth Judicial Circuit

Original: Clerk of Court
Cc: James Dunn, Esq.
Rafe Banks, Esq.

APPENDIX C

[SEAL] SUPREME COURT OF GEORGIA
Case No. S13A0703

Atlanta, October 07, 2013

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

WALTER E. BELL v. THE STATE

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/ [Illegible], Clerk