

WHOLE COURT

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
<http://www.gaappeals.us/rules/>

December 18, 2014

In the Court of Appeals of Georgia

A12A2397. RODRIGUEZ v. THE STATE.

ANDREWS, Presiding Judge.

In *Rodriguez v. State*, 295 Ga. 362 (761 SE2d 19) (2014), the Supreme Court concluded that, because this Court was equally divided on the judgment, the case should have been immediately transferred to the Supreme Court pursuant to the Equal Division clause (Ga. Const. of 1983, Art. VI, Sec. V, Par. V.), and, therefore, the decision in *Rodriguez v. State*, 321 Ga. App. 619 (746 SE2d 366) (2013), should not have been rendered. The Supreme Court vacated this Court's decision in *Rodriguez*; decided the merits of the appeal as if the case had been properly transferred; and remanded the case to this Court with direction "that a remittitur issue to the trial court, affirming the judgment of the trial court, and accompanied by [the Supreme Court's] opinion." *Rodriguez*, 295 Ga. at 366 n.6, 373.

Judgment affirmed. Phipps, C. J., Barnes, P. J., Ellington, P. J., Doyle, P. J., Miller, Dillard, McFadden, Boggs, Ray, Branch and McMillian, JJ., concur.