

GANGS AND DOGS AS WEAPONS

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BACKGROUND

The United States Department of Justice (DOJ) defines gangs as “organized groups of three or more people with a collective identity surrounding criminal activity.” The FBI reports that in the U.S., there are more than 33,000 gangs with approximately 1.4 million active prison, street, and outlaw motorcycle gang members. Local urban street gangs are involved in a host of violent criminal activities, including assault, drug trafficking, extortion, firearms offenses, home invasion robberies, homicide, intimidation, shootings, and weapons trafficking. FBI data suggests that gang recruitment is at an all-time high with more than one million gang members in the United States under the age of 18. Gangs are especially problematic and dangerous for these young members who are at risk of experiencing physical violence, incarceration, substance abuse, unemployment and death.

According to the **National Gang Intelligence Center** (NGIC, 2011), gangs also have dangerous effects on communities, with as much as 90% of the violent crimes in major U.S. cities attributed to gang involvement. Gangs are becoming increasingly adaptable and sophisticated, engaging in non-traditional gang-related crime, such as alien smuggling, human trafficking, prostitution, and white-collar crimes including counterfeiting, identity theft, money laundering and mortgage fraud. These activities provide high profitability with a much lower risk of detection, and less risk of punishment than drug and weapons trafficking. New technology allows criminal gang operations to connect discretely with other gang members, criminal organizations, and potential recruits nationwide and even worldwide.

HISTORY OF GANGS IN ATLANTA

During the crack-cocaine epidemic of the 1980’s, Atlanta gangs were mainly small, homegrown groups that survived in low income housing projects by selling and distributing methamphetamines, marijuana, cocaine and heroin. There were no organized territorial, ethnic or neighborhood gangs, such as the Crips or Bloods. Violence was generally a turf war about who was going to sell dope on what corner. In an effort to clean up the city in anticipation of the 1996 Summer Olympics, many of the low income housing projects were torn down, forcing these homegrown gang members to disperse throughout the city. As these housing-projects were razed, gangs in Atlanta changed. Eradication of housing-project gangs, such as the **Miami Boys**, caused street-level drug dealing to become less organized resulting in a drug void that was soon filled by more organized groups.

In the late 1990s, a group called the **Black Mafia Family** (BMF), originally founded by two brothers in Detroit, (Demetrius "Big Meech" Flenory and Terry "Southwest T" Flenory), stepped in to fill the void. BMF was not a street gang, but was a highly structured organization with drug distribution connections in Mexico, Michigan, California and Georgia. Many of Atlanta's drug wars subsided with BMF in power because BMF's leaders considered violence detrimental to their lucrative drug enterprise. They even tried to start a legitimate hip-hop business called “BMF Entertainment” which included artists such as Bleu DaVinci and Young Jeezy. But in 2005, the Drug Enforcement



Administration (DEA) began an effort to dismantle BMF ending with convictions under the U.S. federal Kingpin statute (21 U.S.C. §848) for committing a “continuing criminal enterprise.” As a result, the two brothers were sentenced to 30 years in prison and another 150 BMF gang members were indicted and sentenced.

Soon other gangs such as the Bloods, Crips, Vice Lords, Gangster Disciples, Latin Kings, the 18th Street Gang, La Gran Familia, Latin Kings, and Sureños 13 saw an opening to establish a lucrative turf in Atlanta. Gangs from Chicago and California seized the opportunity to extend their drug market into Atlanta due to easy availability of transport using Atlanta expressways as a conveyance north, east and west. These established gangs relied on Mexican cartels to supply the drugs from the south. Mexican gang members came along with the cartels, and soon they became the dominant players in the Atlanta drug market.

Presently, police estimate that there are over 135 different sub-strata of gangs in Atlanta (See Appendix II for list of gangs in Georgia). However, Mexican Drug Trafficking Organizations (DTOs) have taken over as the principal transporters and wholesale distributors of most of the illicit drugs available in Georgia. According to law enforcement officials, Mexican criminal groups in California and the southwestern states, as well as Mexican DTOs often use illegal immigrants as couriers to transport cocaine, marijuana, methamphetamine, and heroin into and through the state.

Once the drug trade was taken over by the Mexican cartels, Atlanta street gangs began looking for other ways to make money, usually through burglaries, theft of jewelry stores, carjackings, and robbing gun stores. As a result, two very different type of local street gangs came into power after the disbandment of the housing-project gangs.

The **IRC** or **International Robbing Crew**, a group of street-hardened criminals, and one of the more violent gangs in Atlanta's history, became active locally in the 1990s. Many of their members came to Atlanta from New Orleans after Katrina. Police accredit **IRC** for a litany of robberies and murders between 2005 and 2007 (See **Morris v State**, Appendix I). **30 Deep**, currently one of the city's most criminally prolific gangs in Atlanta, also became active locally in the 1990s. **30 Deep** members were younger, not as sophisticated, and not quite as violent as IRC members. However, they are responsible for an untold number of “smash-and-grab burglaries” at jewelry stores, gun stores and malls. Commonly known as the "Blue Jean Bandits," their preferred methodology is to steal a car, drive through a store's windows, and make off with high-end garments.

STREET CRED

According to psychologist Abraham Maslow (**Hierarchy of Needs**, 1943), every person must obtain four basic needs in order to be healthy and happy: **physiological** (food security and stable housing), **safety** (lack of risks to one's person), **love** (sense of belonging and friendship), and **esteem** (being held in high regard). Gangs provide an attractive means for underprivileged youth to gain all four of these needs, including “**street cred**,” or a reputation of power and prestige in a given neighborhood. Joining a gang with a high level of “**street cred**,” can increase one's self esteem simply by association. Gangs give individuals a sense of power, which can be attractive to individuals who may feel they have been marginalized in other aspects of their lives. Becoming involved in a gang can boost one's self esteem by providing them with a sense of power and belonging.





Certain dog breeds also can convey a sense of status, authority, respect, power, and control for their owners. Hip-hop music videos filled with anti-police messages, gang graffiti, and large, muscular pit bulls made rappers appear threatening and menacing. Young gang members started to breed dogs, specifically pit bulls, to help enhance their image as being tough. Soon gang members found ways to exploit a pit bulls' strong appearance and fighting abilities by using them to facilitate drug deals and debt collections. Consequently, not only in the gang community, but throughout the U.S., a pit bull became a symbol for violence, drug culture and gang brutality.

PIT BULLS AS WEAPONS

To gain more “**street cred**,” urban street gangs developed the dangerous practice of training pit bulls to become weapons. The number of dangerous dogs seized by the police soared as young people increasingly used them as weapons, rather than carrying knives or using guns. Illegal “backyard breeders” beat their dogs and bound their legs to make them more vicious. They wrapped heavy chains around a puppies’ neck to build up their chest muscles. They put their pit bulls into a pen with smaller dogs and encouraged the pit bulls to tear apart the weaker dogs. Some stolen household dogs were used as bait to help train pit bulls for high-stakes dogfights which were then held in housing-project courtyards or back streets. Warring drug dealers also trained their dogs to be killers and used them as four-legged weapons. A gangs’ use of pit bulls, whether for organized dogfights or protection became the preferred method for conferring “**street cred**.”

Gang members also used their dogs to attack rival gang members over insults, turf invasions, or simple taunts. Police had a hard time intervening in these fights because the fights were often spontaneous, unorganized, sometimes conducted for money, drugs, or bragging rights, and occurred on street corners, back alleys, and neighborhood playgrounds. Urban gang street fighters generally kept their pit bulls chained in back-yards, often behind privacy fences, or in basements or garages, out of view of law enforcement. After a street fight, the dogs were often discovered by police or animal control officers either dead or dying. These dogs were forced to fight to the death in many instances, and those who could not go on were abandoned, or killed by electrocution, gunshot, or other cruel means.

BREED SPECIFIC LEGISLATION (BSL)

Pit bull dogs are not inherently dangerous nor are they born ready to kill another dog, animal or human being. Like any other dog, they can become violent, aggressive and mean through a lack of training, abuse, neglect and irresponsible ownership. Today, pit bulls remain largely misunderstood by the general public because of irresponsible owners, increased gang violence using pit bulls as weapons, and a proliferation of myths about pit bulls (Dr. Howard Evans and Dr. Sandy deLahunta, both of Cornell University, have stated that there is “no such thing as a ‘jaw locking’ in any breed”). Hence, breed specific legislation (BSL) has proliferated in cities across the U.S. with rules that either greatly restrict or completely ban pit bull dogs as pets. The stigma that marks pit bulls has also contributed to their rise in U.S. shelters. One in four of all animals brought into shelters are pit bulls, and their average euthanasia rate hovers at 93 percent across the board (HSUS).

Though city and county officials often praise breed specific dog laws, some residents continue to challenge its fairness. They argue that “breed-specific” legislation is an injustice to canines, because





irresponsible owners are to blame for a dog's behavior, not the dog. The Humane Society of the U.S. (HSUS) says the problem isn't so much the dogs themselves as the irresponsible breeders and owners who encourage them to be vicious, and who train them to kill other animals. HSUS opposes BSL as "inhumane and ineffective" because the legislation is "based on myths and misinformation, rather than science and credible data." It also floods over-flowing shelters with breeds that cannot be adopted just because of their looks, even though 80 million of these dogs cannot be accurately identified as pit bulls because of their mixed genealogy.

Some may argue that BSL has been successful in decreasing gang activity in certain areas. For example, city officials reported that their 2009 Lancaster, California ordinance imposing stiff penalties on owners of "potentially dangerous" and "vicious" dogs had positive results, driving down violent gang crime, (homicide, rape, robbery and aggravated assault), by 45%, and dropping overall gang crime by 41% in the city. Officials passed the law primarily to prevent gang members from using dogs, such as pit bulls and Rottweilers, to bully people or to cause physical harm. Of the 1,138 pit bulls and Rottweilers that were impounded by the Los Angeles County Department of Animal Care and Control, 362 were voluntarily surrendered by their owners in response to Lancaster's ordinance. Under the dog ordinance, owners of dogs deemed to be "dangerous" were fined \$500 for each incident, and if the dog was considered "vicious," they faced fines up to \$1,000 per offense and could also be prevented from possessing any dog for up to three years.

DOGS CONSIDERED A "DANGEROUS WEAPON" IN COURT

Under federal guidelines, (18 U.S.C. 930), a dangerous weapon is a "weapon, device, instrument, material, or substance, animate or inanimate, that is used for or is readily capable of, causing death or serious bodily injury." Using a "**deadly weapon**" in a criminal case is considered to be an "aggravating circumstance" which results in a longer sentence for the defendant. Courts have traditionally treated guns and knives as a deadly weapons, but currently, many states are including dogs as a "deadly weapon" if the dog was used to threaten or harm someone. If a dog inflicts serious harm, then a court is more likely to find it to be a deadly weapon. But if the dog was used merely to threaten a victim, then the prosecution must prove that the dog was capable of seriously injuring or killing someone to have the dog be determined as a "deadly weapon."

For instance, in a Michigan case, a court found that a dog constituted a dangerous weapon after a man ordered his K-9 to attack employees of a supermarket. The employees had followed the defendant out of the store on suspicion that he had stolen from them. After he commanded his dog, it lunged at one of the store employees. The dog owner was deemed properly convicted of assault with a "dangerous weapon" (**People v. Kay**, 121 Mich.App.438 (1982)).

In a California case, an appellate court considered a variety of evidence about a defendant's pit bulls including the nature of the breed, its strength, and its ability to cause serious injury or death. The court then analyzed the defendant's and his pit bulls' actions. The man had used the dogs to threaten officers by ordering the dogs to attack. The officers were forced to use pepper spray to subdue the agitated pit bulls. Based on this evidence, the court found that the defendant was properly convicted of using a "deadly weapon" to resist arrest (**People v. Henderson**, 76 Cal.App.4th 453 (1999)).





Rarely reported before 2013, known arrests of suspects who used pit bulls as a weapon to facilitate armed robbery, rape, kidnapping, and murder have dramatically increased over the past four years. According to tracking data (Merritt Clifton of the Animals 24-7 website), police in verifiable cases since 2005 shot 904 dogs, 750 of them pit bulls (83%). About a third of the shootings were to protect civilians from attack, about two-thirds were to protect police officers themselves while serving warrants, investigating domestic disturbances, or trying to make arrests. Pit bull impoundments in connection with dogfighting nearly tripled in 2016, from 396 in 2015 to 1,071.

GEORGIA LAW

Under Georgia law, (**O.C.G.A. §16-5-21**), a person commits the offense of **aggravated assault** when he or she assaults with intent to murder, to rape or to rob "with a **deadly weapon** or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury." For example, in **Braziel v. State**, 320 Ga. App. 6, 739 S.E.2d 13 (Ga. App., 2013), the defendant was charged with aggravated assault on a peace officer when he ordered his pit bull to "sic 'em" and the dog bit the officer on the leg. The court concluded that the dog could be considered a "**deadly weapon**." In 1990, a defendant was charged with aggravated assault with a **deadly weapon** when he sic'd his two Rottweilers and Doberman on the police officers who were serving him with a warrant (**Perkins v State**, 197 Ga. App. 577 (1990)).

The **Georgia Street Gang Terrorism and Prevention Act, OCGA §16-15-3(2)**, defines "criminal street gang" as "any organization, association, or group of three or more persons [that] engages in criminal gang activity" as defined by subsection (1) of the statute. "Criminal gang activity" includes the commission or attempted commission of certain offenses, including any crime "that involves violence, possession of a weapon, or use of a weapon (**OCGA §16-15-3(1) (J)**). The State may prove the existence of a criminal gang "by evidence of a common name or common identifying signs, symbols, tattoos, graffiti, or attire or other distinguishing characteristics, including, but not limited to, common activities, customs, or behaviors" (**OCGA § 16-15-3(2)**). The statute also makes it unlawful to participate in criminal gang activity through the commission of any of the offenses listed which include racketeering, stalking, rape, aggravated sodomy, possessing or distributing dangerous instrumentalities such as knives and guns, posting gang-related graffiti, or committing any criminal offense involving violence or the possession or **use of a weapon**, among other things. Since 2009 in Georgia, not only adults, but many children under the age of 18 have been found guilty under the **Georgia Street Gang Terrorism and Prevention Act** (See Appendix I for cases).

Credit to Kaye Klapper



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APPENDIX I – GEORGIA GANG-RELATED CASE LAW

Jones v. State (Ga., 2017) S17A0348

Jarquez Jones, his brother Samuel Jones, and his cousin Ladarrius Jones [Appellant] were part of the "**Bluff Gang**," a rap group in the Atlanta neighborhood known as the Bluff. On September 13, 2010, Jarquez and Samuel's mother posted insulting remarks on Samuel's girlfriend's Facebook page. Samuel's girlfriend and the four aggravated assault victims were members of the "**Young Crew**," or "**YC**," another rap group in the Bluff. After several more insults were exchanged via Facebook, members of the Bluff Gang and YC took the online dispute to the streets. That night, Jarquez and some YC members including Alexis Jenkins had a confrontation, during which insults were exchanged and YC members may have threatened Jarquez with a gun and a taser. In response, Jarquez drew a gun and then shot at the YC members as they ran away. Witnesses testified at trial that Appellant was with Jarquez during the 3 p.m. incident on September 14, and that he and Jarquez shot at several YC members at about 10 p.m. Wilder and Nelson, who were not involved in the dispute between the Bluff Gang and YC, were standing in the area when the shooting began and were the only people hit by the gunfire; they both died from their gunshot wounds. Appellant Ladarrius Jones was convicted of two counts of malice murder for the shooting deaths of Thaddeus Nelson and Randy Wilder; four counts of aggravated assault for shooting in the direction of Amanda Hill, Alexis Jenkins, Audra McCluster, and Shametia McCluskey; and possession of a firearm during the commission of a felony. Appellant argues that the evidence was insufficient to prove venue, the trial court erred in failing to give a jury charge on voluntary manslaughter, and his aggravated assault convictions should have merged with his malice



murder convictions. **We affirm** because the State established venue beyond a reasonable doubt, the voluntary manslaughter charge was not warranted under the evidence presented, and the aggravated assault offenses did not merge with the malice murder convictions because the crimes involved different victims.

The crimes occurred on September 14, 2010. On December 17, 2010, a Fulton County grand jury indicted Appellant, Jarquez Jones, and Samuel Jones for two counts of malice murder, two counts of felony murder, six counts of aggravated assault, 11 counts of participation in criminal street gang activity, and one count of possession of a firearm during the commission of a felony. Appellant and his co-indictees were tried from September 7 to September 23, 2011. The jury found Samuel Jones not guilty of all charges and Appellant and Jarquez Jones guilty of all charges except the 11 gang activity counts. The felony murder counts were vacated as a matter of law, and the charges for aggravated assault of Nelson and Wilder merged into the two malice murder counts. The trial court sentenced Appellant and Jarquez Jones to each serve two consecutive terms of life imprisonment for the malice murder convictions, 20 consecutive years for each of the four remaining aggravated assault convictions, and five consecutive years for the firearm offense. On September 27, 2011, Appellant filed a motion for new trial, which he amended with new counsel on April 21, 2016. After a hearing, the trial court denied the motion on May 11, 2016. Appellant filed a timely notice of appeal, and the case was docketed to this Court for the term beginning in December 2016 and submitted for decision on the briefs. Jarquez Jones's convictions and sentences were affirmed by this Court in March 2015.

Winfrey v. State (Ga. App., 2017)

Jimmy Carlton Winfrey appeals from the judgment of conviction and sentence entered after he pled guilty to multiple charges of violating the Street Gang Terrorism and Prevention Act. In his sole enumeration of error, Winfrey contends that the trial court judge improperly participated in the plea negotiations to the extent that his pleas to the charged offenses were rendered involuntary. We find no enumeration of error and **affirm** the conviction.

Nolley v. State, 335 Ga. App. 539, 782 S.E.2d 446 (Ga. App., 2016)

Darnell C. Nolley was found guilty by a jury of criminal attempt to commit armed robbery (count 1); aggravated assault (count 2); seventeen violations of the **Street Gang Terrorism and Prevention Act** (the Street Gang Act) (counts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19); possession of a firearm during the commission of the felony offense of criminal attempt to commit armed robbery (count 20); possession of a firearm during the commission of the felony offense of aggravated assault (count 21); and misdemeanor obstruction of a police officer (count 22). By merger with other counts, the trial court subsequently vacated the convictions on counts 2, 4, 6, 10, and 21. On appeal, Nolley contends: (1) that the evidence was insufficient to support his convictions for violation of the Street Gang Act on the remaining counts 3, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, and 19; and (2) that the trial court erred by failing to merge all of the remaining counts charging violation of the Street Gang Act into count 11. We find the evidence was sufficient to support the convictions on all the counts except count 18, on which there was an absence of evidence in the record to prove venue. The trial court did not err by failing to merge all of the Street Gang Act counts into count 11. We conclude for



other reasons that counts 8, 9 and 11 must also be vacated and the case remanded for resentencing. Judgment affirmed in part, reversed in part, and vacated in part, and case remanded for resentencing. **Proof that “the commission of the predicate act was intended to further the interests of the [gang]” is essential to prove a violation of OCGA § 16–15–4(a).** *Jones v. State*, 292 Ga. 656, 659, 740 S.E.2d 590 (2013); *Rodriguez v. State*, 284 Ga. 803, 807, 671 S.E.2d 497 (2009) (“there must be some nexus between the act and an intent to further street gang activity.”) We find the evidence was sufficient to establish a nexus between the predicate act and the intent necessary to prove the counts alleging violations of OCGA § 16–15–4(a), (b), and (d). As set forth above, Nolley and most of the co-defendants involved in the attempted armed robbery of Hammond were associated with the gang; the gang was involved in prostitution and drugs sales; and gang culture centered around enforcing respect for gang members and activities in the gang's territory. Nolley perceived disrespect from Hammond over dealings with Nolley's prostitute, and Nolley planned the robbery to get respect from Hammond and to take over Hammond's drug territory. There was evidence that Nolley, who was a high-ranking gang leader and organizer, saw the robbery as an opportunity to train or promote gang members. There was also evidence that connected the planning and execution of the attempted armed robbery to a gang-related handshake, gang symbols in a text message, and use of a gang-related bandana.

Zamudio v. State (337 Ga. App. 531, 786 S.E.2d 569 (Mem) (Ga. App., 2016)

Antonio Jesus Zamudio and Carlos Gonzalez were jointly indicted, tried, and convicted of attempted murder, aggravated assault, aggravated battery, and a violation of the **Georgia Street Gang Terrorism and Prevention Act**, OCGA § 16-15-1 et seq. The attempted murder, aggravated assault, and aggravated battery charges served as the predicate offenses for the criminal street gang count pursuant to OCGA § 16-15-4 (a), which makes it "unlawful for any person employed by or associated with a criminal street gang to conduct or participate in criminal street gang activity through commission of any offense enumerated in paragraph (1) of Code Section 16-15-3." "....a judgment of sentence is void where it imposes an illegal sentence, i.e., a sentence that the law does not allow, and . . . the illegality of such a judgment is not a waivable issue." Judgments of conviction affirmed, sentences vacated in part, and cases remanded.

After remand, the trial court held a resentencing hearing and merged Count 2 (Criminal Attempt to Commit Murder) and Count 3 (Aggravated Assault) into Count 4 (Aggravated Battery). At the resentencing hearing, Zamudio argued that Count 4 (Aggravated Battery) should merge into Count 1 (Violation of the Street Gang Act) because Count 4 was a predicate act for Count 1. The trial court declined to merge the counts, sentencing Zamudio to 20 years to serve 10 in incarceration for Count 1 and 15 years to serve 10 in incarceration for Count 4 to run concurrent to Count 1. After briefing in this case, this Court decided *Nolley v. State*, in which this Court held that by enacting OCGA §16–15–4 (m), the Legislature had determined that predicate acts for any offenses listed in the Street gangs Act do not merge with the separately charged violation of the Street gangs Act. Accordingly, this enumeration is without merit. Judgment affirmed.

Randolph v. State, 334 Ga. App. 475, 780 S.E.2d 19 (Ga. App., 2015)



Based on his sworn testimony during a prior murder trial, a jury found Davan Randolph guilty of distributing marijuana, conspiring to distribute marijuana, and violating the Georgia Street Gang Terrorism and Prevention Act. Randolph appeals, arguing that his prosecution was barred by procedural double jeopardy, the state engaged in selective prosecution, venue was not proven, and there was insufficient evidence of the gang crime. We affirm the drug convictions, **but reverse the gang activity conviction**. Randolph maintains that there was insufficient evidence to support his conviction for violating **the Georgia Street Gang Terrorism and Prevention Act**, OCGA §16-15-1 et seq. Because the state failed to present evidence that Randolph's marijuana distribution crimes were intended to further the interests of the gang, we agree. Because the state failed to present evidence of the necessary nexus between Randolph's drug crimes and an intent to further gang interests, his conviction under the Georgia Street Gang Terrorism and Prevention Act must be reversed. **Judgment affirmed in part and reversed in part.**

Alston v. State (Ga. App., 2014)

Kelton Alston and Chance Perkins were tried together before a jury and each was convicted of aggravated assault, armed robbery, theft by receiving, cruelty to children, criminal street gang activity and possession of a firearm during the commission of a crime. They filed separate motions for new trial, which the trial court denied. Alston and Perkins then filed separate, timely notices of appeal, which were docketed in this Court as A14A1018 and A14A1019, respectively. We consolidated their cases for review and now affirm.

A14A1018 - Alston - evidence was also presented that shortly after he was arrested he told police that he "can't give names because of these" and pointed to the gang tattoos on his hands and wrist. This and other evidence presented at trial was sufficient to establish that the crimes here were related to and in furtherance of defendants' Bloods gang affiliation.

A14A1019 – Perkins - in light of all the attendant circumstances here, we find that Perkins' trial counsel's strategic decision in regards to Perkins' tattoos was not so patently unreasonable that no reasonable attorney would have taken this course of action. And because counsel did not render deficient performance by failing to attempt to conceal Perkins's facial tattoos from the jury, it is unnecessary for us to consider the second prong of Strickland. *White v. State*, 293 Ga. 825, 826 (2) (750 SE2d 165) (2013) ("If a defendant fails to meet his burden on one prong of the two prong test, then the other prong need not be reviewed by the Court.").

Judgments affirmed.

Dowdell v. State, 325 Ga. App. 593, 754 S.E.2d 383 (Ga. App., 2014)

In connection with a bar room brawl that left Carvetta Moore with injuries, Hadji Dowdell was convicted (along with others) of: (i) aggravated assault, by striking Moore with glass bottles, fists, and feet; and (ii) violation of the **Georgia Street Gang Terrorism and Prevention Act**, by, as a person associated with a criminal street gang, participating in criminal gang activity through the commission of the aggravated assault. In this appeal, Dowdell challenges the sufficiency of the evidence; he also challenges the admission of certain evidence as hearsay. Because Dowdell has shown no reversible error, **we affirm.**





Morris v. State, 294 Ga. 45, 751 S.E.2d 74 (Ga., 2013)

Appellant Edward Morris was convicted of murder, aggravated assault, criminal street gang activity, and related offenses in connection with incidents involving victims Randy Griffin and Lacey Magee in May and June of 2007. Morris was a member of the “**International Robbing Club**” or “IRC,” a loosely affiliated group of friends and associates who planned and executed so-called “licks,” robberies of individuals believed to possess significant amounts of cash, drugs, jewelry, and other high value items. In May 2007, IRC members targeted Griffin, a jewelry merchant who regularly wore flashy jewelry. In the early hours of May 22, 2007, Morris and various co-indictees followed Griffin as he was driving home from a night club, intending to rob him. When Griffin and Magee, his girlfriend, pulled into Griffin's driveway and exited their cars, shots were fired at them from a gold Toyota Avalon occupied by Morris and co-defendants Carlos Drennon, Maurice Hargrove, and Vincent Morris. Magee was shot in the hand, and Griffin returned fire. The Avalon drove off, with both Drennon and Vincent Morris having been shot. Following the incident, Magee and Drennon were treated for their injuries at the same hospital, and Griffin, who had accompanied Magee to the hospital, identified Drennon as one of their assailants, leading to Drennon's arrest. Less than three weeks later, in the early morning hours of June 10, 2007, Griffin was shot and killed outside Club 112, a Midtown nightclub. State's witness Marciell Easterling, a co-indictee who testified under an immunity agreement, testified that IRC members, including Morris, had planned Griffin's murder to retaliate for Drennon's arrest. Morris appeals his judgment of conviction, contending that the trial court erred by refusing to sever a particular count from the others at trial and by admitting certain expert testimony, and that the State failed to prove venue. Finding no error, **we affirm**.

Morey v. State, 312 Ga. App. 678, 719 S.E.2d 504 (Ga. App., 2012)

Claude Morey III and Deandre M. Evans appeal their convictions and sentences arising out of a fight that took place on July 3, 2007 outside the main gate of Six Flags amusement park. Both young men were convicted on counts of aggravated battery, aggravated assault, battery, simple assault, and **participating in a criminal street gang**. Among other things, they challenge the sufficiency of the evidence, the trial court's ruling on a motion in limine, and the court's finding that they received effective assistance of counsel. The two cases have been consolidated for purposes of appeal. In sum, the trial court determined that trial counsel was “as prepared as he could be given the level of cooperation of his client and the incomplete nature of the information given to him prior to trial” and therefore, not ineffective. We find no error in the trial court's determination that counsel's performance was not deficient. Accordingly, we need not reach the question of whether Evans could show harm. Judgments affirmed.

Evans and Morey were also convicted of violating the Georgia Street Gang Terrorism and Prevention Act for participating in criminal gang activity through the commission of the above offenses. See OCGA § 16–15–4. With regard to the gang charge, Forbes testified that Evans admitted being the leader of the gang “YGL”; that there were ten or fifteen gang members wearing YGL on their clothing; that this group had the encounter with the two families; that Evans was “repping his gang” at that incident; that, later, the group involved in the incident with the families, together with Morey, discussed the incident and decided to find the families and fight with them; and that the group, including Evans and Morey, then attacked the three boys without provocation. Thus, Forbes's





evidence shows that a gang existed that was involved in ongoing criminal gang activities, i.e., terroristic threats and stalking, and that the gang's attack on the three boys was related to those gang activities. This satisfies the requirement that the "criminal gang activity" was ongoing at the time of the incidents underlying the charged offenses. See *Rodriguez*, 284 Ga. at 809, 671 S.E.2d 497.

In re A.G., 730 S.E.2d 187, 12 FCDR 2434 (Ga. App., 2012) (Judgment reversed)

Following a bench trial for the charges of battery and violating the **Georgia Street Gang Terrorism and Prevention Act**, A.G., A.M., S.W., and D.R. (the "juveniles") appeal their adjudication of delinquency, contending that the evidence was insufficient to support the verdict against them and that the trial court erroneously based its findings on evidence not properly in the record before it. All four juveniles were charged with violating OCGA § 16–15–4(a), which makes it unlawful for persons associated with a "criminal street gang" to engage in "criminal gang activity" by committing certain enumerated predicate offenses, including battery. 4 A "[c]riminal street gang" is defined as a "group of three or more persons associated in fact, whether formal or informal, which engages in criminal gang activity." To sustain a conviction, the state must prove that the criminal gang activity or plans for its continuation was ongoing at the time of the commission of the indicted offenses; "in other words, the commission of an enumerated offense by the defendant is not itself sufficient to prove the existence of a 'criminal street gang'." **Here, there was no evidence beyond wearing purple bandanas and a notebook with "'G-ville' written on it to link the juveniles to membership in a criminal street gang. Judgment reversed.**

Rodriguez v. State, 284 Ga. 803, 671 S.E.2d 497 (Ga., 2009)

Gilberto Rodriguez and Efrain Rodriguez (Appellants) and several others were jointly indicted for multiple counts, including alleged violations of the **Georgia Street Gang Terrorism and Prevention Act** (Act), OCGA §16-15-1 et seq. The indictment charged that both Appellants "did participate in criminal street gang activity by committing a crime of violence, to wit: aggravated assault while associated with a criminal street gang. . . ." A separate count charged Efrain Rodriguez alone with participation "in criminal street gang activity by possession [of] a pistol in violation of OCGA §16-11-132 while associating with a criminal street gang. . . ." These two charges also served as the predicate offenses for two counts of felony murder. All four counts charging criminal street gang activity are based upon OCGA §16-15-4(a), which makes it "unlawful for any person employed by or associated with a criminal street gang to conduct or participate in criminal street gang activity through the commission of any offense enumerated in paragraph (1) of Code Section 16-15-3." In a "motion challenging constitutionality of OCGA §16-15-4," Appellants sought dismissal of those four counts. After conducting a hearing, the trial court entered a written order finding that the Act is constitutional and denying the motion on all grounds. Appellants appeal pursuant to our grant of their application for interlocutory appeal. They challenge the Act as infringing upon the First Amendment right to freedom of association and as facially vague and overly broad under the Federal and Georgia Constitutions. **Criminal gang activity "is not protected activity even when committed by a group exercising their constitutional right to free association. Judgment affirmed.**





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APPENDIX II – GEORGIA GANGS

30 Deep
4WB Fourth Ward Boys
All About Cash
All About Finesse
All About Money
Atlanta Blood Gang Squad
ATL Riders
Bang Bang Anywhere Gang
Bank First Play Later
Bethel Towers Crew
Black Pistons MC
BMB Blood Money Boys
Bloods
Campbelton Road Gangsters
Certified Street Niggas
Certified Paper Chasers
Check Gang
Crips
Cross the Track Boys
Da Fam
Dem Franchise Boys
Deadly Killer Click
DTS Dogwood Trap Starts
Fuck Being Broke
Gangsta Azz Nicca
Gangster Disciples
GD 74
Gett Money Play Later Click
Guapaholic Hard Times 13
Gwalla Boys
Hard Times
Hot Boy Click
Insane Gangster Disciples
Irwin Street Gorillas
James Gang MC
Merk Squad
Most Dangerous Click
Niggas Bout Action
Niggas for Life
No Mercy/ Trained to Go



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Oakland City Posse
Outcast MC
Outlaws MC
Partners of the Struggle
Pittsburgh Jack Boys
RACK Crew
Raised on Cleveland
Rollin 20's Bloods
Rollin 60's Crips
Runts
Simpson Road Gangsters
Stealing Everything (SIMPSET)
Sureños
Sur-13
Southside 13
Sur King Locos
Ten Little Niggas
Trained to Go
Vagos
Vatos Locos
Vice Lords
White Boi Gang
Young Block Boys
Young Choppa Fam
Young Committed Partnas
Young Cushman Boys
Young Get Money Gangsters
Young Gunna Click
Young Money Makers
Young Niggas Get Money
Young Paper Chasers
Young Crew
YSet/ Y3/ Sak Takerz



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