COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

December 16, 2015

To: Mr. Romel Molina Manaois, GDC1288128, Coffee Correctional Facility, Post Office Box 650 Nichols, Georgia 31554

Docket Number: Style: Romel Molina Manaois v. The State

Your document(s) is (are) being returned for the following reason(s).

1. ☐ Your Application was not accompanied by the statutory filing fee, $300.00 civil; $80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.

2. ☐ Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).

3. ☑ **A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)**

4. ☐ A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)

5. ☐ Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)

6. ☐ There were an insufficient number of copies of your document. Rule 6

7. ☐ No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.

8. ☐ Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6

9. ☐ Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)

10. ☐ Your request for court action must be submitted in motion form. Rule 41 (a)

11. ☐ No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.

12. ☐ The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).

13. ☐ Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)

14. ☐ Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).

15. ☐ Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).

16. ☐ **Other:**

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COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

12/15/15

To: Romel Molina Manaois

Docket Number: Style: Romel Molina Manaois V. The State

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15. ☐ Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rules 1(c), 30 (e) and 31 (c)

16. ☐ Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).

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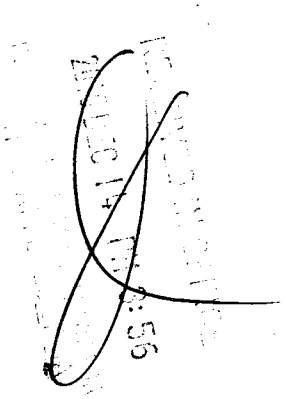
APPLICATION FOR DISCRETIONARY APPEAL

IN THE COURT OF APPEALS OF GEORGIA



ROMEL MOLINA MANAOIS,
Appellant,

vs.

STATE OF GEORGIA,
Appellee.

DOCKET #_____

ON appeal from the Superior Court of DeKalb County, case no. 08-CR-1899-7

Respectfully Submitted,
Is/ Romel Manaois
Appellant, PRO-SE
Ipl Romel Molina Manaois
GDC# 1288128
COFFEE CORR. FACILITY
P.O. BOX 650
NICHOLLS, GA 31554-0650

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TABLE OF AUTHORITIES

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IN THE COURT OF APPEALS OF GEORGIA

ROMEL MOLINA MANACIS,
Appellant,

v.

STATE OF GEORGIA,
Appellee.

COURT OF APPEALS DOCKET NO.

APPEAL FROM DEKALB COUNTY
SUPERIOR COURT CASE NO.
#08-CR-1899-7

APPLICATION FOR DISCRETIONARY APPEAL

Comes now, the above-named Appellant, in the above-styled case and caption, and pursuant to O.C.G.A. § 5-6-35, and Court of Appeals of Georgia Rule NO. 31, and in accordance thereof, for a discretionary appeal to be granted, in order to allow the Appellant the opportunity to address errors in his case that are clearly in contrast to law, and shall be sufficient grounds to reverse his case. The primary issue at hand is a combination of ineffective counsel and court error in permitting venue to not be properly established nor proven beyound a reasonable doubt. Such is a required element of a jury trial, to prove venue.

This, among a seled few other errors, produce a strong case to grant Appellant's discretionary appeal, and to allow his arguments to be heard and considered. The indicated errors deprived the Appellant of his right to a fair trial, and therefore his case's outcome is in opposition to established precedents as well as intent of the legislative and judicial branches of the government.

DECISION AND ORDER APPEALED

The Superior Court of DeKalb County, the Honorable Daniel M. Coursey, JR., Judge, entered into the record, finding the Appellant guilty being proven after trial, on August 26, 2008. This is the ultimate decision being appealed based on contrast of applied law, namely failure to prove venue, and despite being a ground not previously raised, said requirement cannot be be waived by a failure to do so.

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

1.

The alleged victim, Tyler Stewart, was allegedly assaulted by an unknown assailant, on September 30, 2007, and was purported to have occurred in Dekalb county.

2.

The Appellant was indicted by a Dekalb County grand jury, on one count of aggravated assault, on March 6, 2008. Appellant entered a plea of not guilty.

3.

Appellant's jury trial found him guilty on August 26, 2008, despite the failure of the state to prove venue beyond a reasonable doubt, nor to prove him guilty of aggravated assault. Additionally, the jury was not informed of its option to find Appellant guilty of the lesser included offense(s) of simple assault or pointing a pistol at another.

4.

Appellant's motion for a new trial was filed on September 25, 2008, and an amendment was filed on or about December 12, 2008.

5.

On February 25, 2009, the State filed its brief ahead of the hearing for Appellant's motion for new trial.

6.

On March 23 and 27, 2009, Appellant's motion for new trial hearing was held before the Honorable Daniel M. Coursey, JR., judge of DeKalb County. Said motion focused on an alleged Brady violation when State did not reveal information related to a witness named Nicole. In addition, there was claims of ineffective trial counsel. The motion was denied by the foregoing judge.

CLAIMS / GROUNDS

I. VENUE

The Appellant asserts that his rights were violated when the state failed to properly establish venue lay in DeKalb County, in his instant case.

ARGUMENT AND CITATION OF AUTHORITY

Pursuant to the Georgia Constitution of 1983, venue is a jurisdictional element in every crime. See JONES V. STATE, 537 S.E. 2d 467 (2000). In addition, venue is a "constitutional requirement," not just a "procedural nicety." See GRAHAM V. STATE, 565 S.E. 2d 467 (2002). When a Defendant pleads not guilty (and thus goes to trial), the State must prove, beyond a reasonable doubt, every element of the offense charged, and this includes venue. See TOMPKINS V. STATE, 607 S.E. 2d 896 (2005).

The failure to prove venue beyond a reasonable doubt, renders the verdict contrary to law, in insufficiency of evidence, and warrants reversal on appeal. See JONES, supra; DAVIS V. STATE, A13A1660, (accord).

A criminal defendant may waive jurisdictional defenses and may expressly authorize factual stipulations that will obviate the need for proof. See THOMPSON V. STATE, 586 S.E. 2d 231 (2003). However, the defendant cannot generally do so over the

State's objection. See BOSS V. STATE, 614 S.E. 2d 31 (2005).

The U.S. Supreme Court has clearly explained, the prosecution is entitled to prove its case by evidence of its own choice, or more exactly, the defendant may not stipulate or admit his way out of the full evidentiary force of the case as the government chooses to present it. See OLD CHIEF V. U.S., 519 U.S. 172, 186-187, 117 S. Ct. 644, 136 L. Ed. 2d. 574 (1997). In other words, "[a] defendant cannot undermine the credibility of the State's story, by selectively admitting certain incriminating evidence, to prevent the jury from receiving that evidence." BOSS, supra.

Accordingly, per O.C.G.A. § 17-2-4(b), which authorizes a defendant arrested, held or present in one county to waive venue and trial or complaint or arrest warrant from another county, but only when pleading guilty... and subject to the express approval of the prosecuting attorney for each county.

Given the above and the following supporting information, the Appellant contends that the State failed to prove venue in the instant case beyond a reasonable doubt.

SUPPORTING FACTS

STATE: Peachtree Industrial where this shooting took place at 5900 Peachtree Industrial, that area where the plaza is, is that Dekalb County?

WITNESS: Yes, it is.
STATE: No further questions.
COURT: You may step down. You may call your next witness.
STATE: Thank you, judge. Your honor, at this time the State rests.

[excerpt from jury trial p. 128, l. 5-14, State is represented by Mr. Patillo, the prosecuting attorney; the witness was Dekalb County investigator, Mr. Lindsey I.

The above testimony is insufficient to establish venue in the Appellant's instant case. The primary reason for this is the fact that not only does Peachtree Industrial exist as a continuous road in both Dekalb and directly adjacent Gwinnett County. The address given at the above place during the trial, is located and established to exist clearly in Gwinnett County, not Dekalb County. Obviously, the jurisdiction of the instant case was not proven to be Dekalb County, especially not beyond a reasonable doubt.

See attached exhibit #1, which is a map of the location testified to during the Appellant's trial. As can be seen, 3900 Peachtree Industrial Blvd., is located in Gwinnett County, rather than in Dekalb County.

Therefore, as a fact of law, the essential element of venue was not proven, and not beyond a reasonable doubt. Instead, testimony only served to establish a location that exists in Gwinnett County. In turn, this failure to prove venue in Dekalb County causes the Appellant's conviction to be void.

An error of this magnitude, which is also a plain error, requires no further review; the error is an automatic reversible error. So, the only remedy is to Grant the Appellant's discretionary appeal, in order to allow him the proper vehicle to correct this miscarriage of justice. He also acknowledges that in doing so, it does not preclude him from being re-tried or to plea anew.

II. IMPROPER COMMENTS BY COURT

The Appellant asserts that his right to a fair trial were put in question when the trial Court made an improper comment to the jury at the start of the trial, as it related to venue.

SUPPORTING FACTS:

> COURT: ... Charge and accuse Romel Molina Manaois with the offense of aggravated assault, for that the said accused, in the county of Dekalb and State of Georgia, on the 30th day of September 2007, did make an assault on the person of tyler stewart... [jury trial p. 9, l. 18-22].

ARGUMENT AND CITATION OF AUTHORITY

The Appellant asserts that the use of the language noted above, primarily "did make," was an improper comment made by the Court, that could provide an erroneous impression upon the jurors in the appellant's case. Such a comment could imply that the Court had already formed an opinion or the guilt of the accused, as well as an essential fact, as in the venue of the offense having already been proven, when in-fact it has not been proven.

As such, any improper comment that could be implied as fact, even if that is not intended by the Court, requires a new trial regardless of whether there has been any showing of actual prejudice to the defendant. See O.C.G.A. §17-8-57. See ROUSE V. State, 765 S.E. 2d 879 (2014); Additionally, if a violation of O.C.G.A. § 17-8-57 is found, a conviction will be reversed without further consideration of the effect of the error on the defendant's substantial rights or the fairness and integrity of the proceeding. See PATEL V. STATE, 282 Ga. 412, 415, 651 Se 2d 55 (2007); Collier v. State, 288 Ga. 756, 763, 707 Se 2d 102 (2011)(accord); such a violation will always constitute plain error, and failure to object does not waive this issue. See STATE V. GARDNER, 286 Ga. 633, 634, 690 S.E. 2d 164 (2010).

Any statement made in the presence of the jury, even one inadvertent or unintentional, violates 17-8-57, because it could be construed as a comment on an element of the state's case (venue, for example).

Therefore, since it is unclear how the noted comment can be interpretted by the jury, said error is a plain error, and necessitates a reversal in the Appellant's case.

III. COURT'S ABUSE OF ITS DISCRETION

The Appellant asserts that the trial Court abused its discretion when it did not allow a full and fair hearing on his request to have counsel replaced prior to trial. This also prevented Appellant from having a fair trial.

SUPPORTING FACTS:

(A bench discussion was had between the Court and Counsel, off the record.)

COURT: Ladies and Gentlemen, please retire to the jury room.

[jury trial transcript p. 27, l. 22-25].

(The jury retired from the courtroom).

COURT: Mr. Manaois, Ms. Snyder just told me at the Bench that you want to hire another attorney?

DEFENDANT: Yes, Sir. I'm not comfortable with my lawyer, sir.

COURT: Not what?

DEFENDANT: I'm not comfortable with my lawyer. Since yesterday she just want to make me want to plead guilty. I got a witness too, you know, and she like -- I don't know why she won't bring my witness.

COURT: Ms. Snyder, what do you say about that?

DEFENSE COUNSEL: We do have some witnesses under Subpoena that we intend to call. I have explained to Mr. Manaois why, as the attorney, I don't feel that the one witness that he is talking about would not be helpful to his defense.

DEFENDANT: Because he stutter.

COURT: Because what?

DEFENDANT: He stutter. When he talk, he stutter. That's my witness.

DEFENSE COUNSEL: I'm comfortable in proceeding at this point. If I needed more time from the court, I would [have] tell the Court that we needed more time.

COURT: Mr. Manaois, we've started the trial, so it's a little late to be asking for another lawyer.

DEFENDANT: Not even three to four days, sir?

COURT: Sir?

DEFENDANT: Not even three to four days?

COURT: No, sir. So we will go ahead. I am going to deny your request. Let's bring the jury back in. I will be right back.

(The jury entered the courtroom).

[jury trial transcript p. 28. l. 1-10, 25; p. 29. l, 1-2, 8-16).

ARGUMENT AND CITATION OF AUTHORITY

The Appellant asserts that his constitutional right to a fair trial was spoiled, when the trial Court did not allow a fair opportunity to have a counsel of his choosing either a paid one, or another one appointed.

A defendant is entitled to effective representation, in all stages of a criminal proceeding, and no time is more crucial than at trial. The other fact to consider from the foregoing testimony, is that the defendant was not permitted to even explore the possibility of paid or retained counsel -- merely noted as to "hire another attorney." Such uncertainty places an unneeded burden on the defendant in this instant case, which deprived him of a fair opportunity to repell the charges against him. There is not even a determination on whether or not the appellant can afford a paid attorney or not.

The Sixth amendment clearly guarantees and recognizes the defendant's right to counsel at trial and such is the "core" of this constitutional right. Denial of this right requires a reversal of the appellant's /defendant's conviction, as the defect is structural, and can only be remedied by aforementioned reversal.

The right to appointed counsel at trial or in the instant case, retained representation of choice, are a right so basic to a fair trial that their infraction can never be treated as a harmless error. See U.S. vs. GONZALEZ-LOPEZ, 548 U.S. 140 (2006); CHAPMAN V. CALIFORNIA, 386 U.S. 18 (1967). Therefore, the only way to correct this error is to grant a new trial to the Appellant, by reversing his conviction. Importantly to repeat, is the disconnect on whether or not or even if the appellant wanted the opportunity to hire his own counsel of his choosing.

IV. IMPROPER JURY CHARGES

The Appellant asserts that the Court did not give the jury the proper charge(s) as it relates to being convicted of the lesser included offense of simple assault. Appellant also contends that charge to jury was misleading and burden shifting in respect to saying a handgun is a deadly weapon.

SUPPORTING FACTS:

COURT: A person commits simple assault when that person attempts to commit a violent injury to the person of another or commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

A person commits the offense of aggravated assault when that person assaults another with a deadly weapon.

A firearm, when used as such, is a deadly weapon as a matter of law.

[jury trial transcript p. 169, l. 14-22].

DEFENSE COUNSEL: Put one thing on the record. In speaking with my office over exception to jury charges. I will, for the record, if the court will allow me at this time to take exception to I believe it's state's two, handgun as a deadly weapon is burden shifting. And the support for that is UNITED STATES VERSUS SANDSTROM. I know that before that I said no before the verdict and I would like to correct that.

COURT: I think it's too late now. [jury trial transcript p. 174, l. 17-25].

DEFENSE COUNSEL: Well, I tried.

STATE: Judge, just for the record, that is an actual pattern charge from the charge book, so.

DEFENSE COUNSEL: I understand.

[jury trial transcript p. 175, l. 1-4].

ARGUMENT AND CITATION OF AUTHORITIES

The Appellant contends that despite reading to the jury what a simple assault is, the Court failed to clearly articulate to the jury that they could find the Appellant guilty of simple assault if they could not find him guilty beyond a reasonable doubt of the indicted offense of aggravated assault. The mere reading, as such, is not sufficient as an instruction that any reasonable jury would understand in their deliberations when deciding a verdict.

It would be as if the reading done by the court was perfunctory at best. In addition, where is the possible verdict form for the potential verdict of simple assault? The only one provided is the one related to aggravated assault. This could be or could mean several things. The implication is both vital and potentially destructive in respect to the Appellant. One possibility is to gloss over the chance that the Appellant might truly only be guilty of simple assault rather than aggravated assault. The court should have erred on the side of caution - abundant caution - in respect to the Appellant's liberty interest being clearly at stake.

In addition to the above, the State never provided nor produced any evidence that a handgun existed. This plays to the part about being burden shifting. The burden rests on the state to prove each and every element of the charged offense, not vice versa to have defendant show it didn't exist.

Therefore, no common man or woman serving on the jury could have even understood the distinction when they considered their verdict, and as such it should be reversed.

In all respects, the jury did not have all the information necessary to make an informed and intelligent decision, where their discretion was concerned. This is a crucial denial of the Appellant's rights to a fair trial.

I. Fatal Variance Between Indictment and Evidence

The Appellant asserts that the State did not prove the offense as charged in the offense, in how committed, namely with a handgun, which as noted before, is burden shifting when the state does not prove it even existed.

SUPPORTING FACTS:

Pursuant to Indictment:

"... on the 30th day of September, 2007, did make an assault on the person of Tyler Stewart with a handgun, a deadly weapon."

Indictment language tracked by Gwendolyn Keyes Fleming, District Attorney.

Reading by Court:

COURT: ... on the 30th day of September, 2007, did make an assault on the person of Tyler Stewart with a handgun, a deadly weapon, ...

[jury trial transcript, p. 9, l. 20-22].

STATE: I'm going to ask you to find him guilty of aggravated assault for shooting an unarmed man that day. Thank you.

[jury trial transcript, p. 26, l. 26].

STATE: Then what did he do?

WITNESS (Tyler Stewart): He just looked at me in the face and dropped the gun to his side and took off running this way.

[jury trial transcript p. 46, l. 20-22].

DEFENSE COUNSEL: And there was no evidence collected?

WITNESS (Detective Kitchens): I don't believe so.

DEFENSE COUNSEL: Do you know whether or not crime scene came out?

WITNESS: I don't know. They never stated to me nor in their report, so I don't think they came out there.

DEFENSE COUNSEL: So they didn't come out to look for any sort of evidence like hair, fiber, blood?

WITNESS: Normally when the officers are out there, they try to see if there is a shell casing, and I think it was in the back of a building. No ma'am, I don't think they responded out there.

[jury trial transcript, p. 110, l. 16-25; p. 111, l. 1.]

DEFENSE COUNSEL: They didn't come out. And you didn't go out to Peachtree Village Plaza at any time, did you?

WITNESS: NO.

[jury trial transcript, p. 111, l. 24].

DEFENSE COUNSEL: So if he--well, strike that. As far as you know, there was never a statement given by Mr. Stewart that Mr. Manaois actually pointed the gun to his head, Mr. Stewart's head, is there?

WITNESS: Not from what I remember, ma'am.

DEFENSE COUNSEL: So that was never mentioned to police?

WITNESS: No, ma'am.

[jury trial transcript, p. 113, l. 11-17].

DEFENSE COUNSEL: Whether or not Mr. Manaois's had a gun in his bag or in his waistband, that would have been an important detail you would have made correct, right?

WITNESS: Yes, Ma'am.

[jury trial transcript, p. 114, l. 12-15].

DEFENSE COUNSEL: No one ever went back out to look for a gun?

WITNESS: Canvass possibly done that day, by the officers and the detectives that went out there, but no.

DEFENSE COUNSEL: Not Afterwards?

WITNESS: No, ma'am.

[jury trial transcript, p. 115, l. 16-20].

DEFENSE COUNSEL: Never applied for a search warrant of Mr. Manaois's House?

WITNESS: No, Ma'am

DEFENSE COUNSEL: Never talked to anyone in Mr. Manaois's family?

WITNESS: No, Ma'am.

[jury trial transcript, p. 116, l. 17-21].

STATE: And was the gun that was used in this shooting ever recovered?

WITNESS: No, Sir.

[jury trial transcript, p. 117, l. 19-21].

DEFENSE COUNSEL: ... Detective Kitchen testified that, no, they didn't collect any evidence, they didn't get any search warrants for Mr. Manaois's house....

[jury trial transcript p. 146, l. 24-25; p. 147, l. 1].

DEFENSE COUNSEL: You've heard evidence, although we have no medical testimony...

Why on earth would the Dekalb County Police Department or the GBI or the crime scene lab with the crime scene investigators, they can do all of this testing and evidence collecting and just try. Why not head out to Mr. Manaois's apartment, why not get a search warrant and try to look through his house at the time.

[jury trial transcript, p. 147, l. 5-6 and l. 13-18].

ARGUMENT AND CITATION OF AUTHORITY

The Appellant argues and asserts, that based upon testimony and proof (or lack thereof), that their is a fatal variance between the indictment and evidence presented in the instant case.

The Court of Appeals of Georgia stated that if the indictment set out the offense to have been committed in a particular and narrow way, the evidence must prove it, or a fatal variance will exist. See, NESMITH V. STATE, 183 Ga. App 529, (1987).

In the Appellant's case, the indictment alleged that he committed an aggravated assault with a hand gun. However, during the Appellant's trial, the evidence showed that the aggravated assault was made by shooting an unarmed man (jury trial transcripts, p. 26, l. 8-9; 33, l. 24-25; 56, l. 16-18). So, the charge was not proven as indicted, nor was a weapon ever found nor introduced nor was specified. Interestingly enough, no medical testimony was ever introduced, nor was any type of ballistics or gun shot residue ever run. GSR would exist on any alleged victim, in addition to any possible suspect. Crime scene was non-existent at best.

Additionally, the honorable court held that an indictment shall set out the offense alleged with enough specifity to allow the defendant an ample and fair opportunity to defend himself, and to build a defense. As such, due process requires that the indictment inform the accused of the charges so he can defend himself at trial. See ALLEN V. STATE, 120 Ga. App. 533 (1969).

Therefore, the Appellant was unable to receive a fair trial, and hence, his case must be reversed.

CONCLUSION

WHEREFORE, THE APPELLANT prays for this honorable Court of Appeals to GRANT this, his instant APPLICATION FOR DISCRETIONARY APPEAL, to include the following:

1). To allow Appellant to receive an opportunity to file a brief in his case related to the foregoing claims and grounds contained therein;

2) TO allow him an opportunity to receive a brief from the appellee (State), to perfect both side's chance to argue the issues therein; and,

3) TO allow justice to be served, to align the Appellant's case to prior precedents and to the ends to further fairness and justice to prevail, and any other appropriate relief deemed by this honorable court, such as to remand this case to the trial court, with direction.

Executed this 2nd day of December, 2015.

Respectfully Submitted,

/s/ Ronel Manois

Appellant, PRO-SE

/s/ Ronel Molina Manois
GDC # 1288128
Coffee Corr. Facility
P.O. Box 650
Nicholls, GA 31554-0650

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, has served a correct copy of the Appellant's instant APPLICATION FOR DISCRETIONARY APPEAL, by placing the same, upon the following parties, in the U.S. Mail, properly addressed envelopes, with adequate postage, thereon, to wit:

TO: Stephen L. Castlen, Hon. Clerk
Court of Appeals of Georgia
47 Trinity Avenue, Suite 501
Atlanta, GA 30334

TO: The Office of the D.A.
Stone Mountain Judicial Cir.
Dekalb County Courthouse
556 N. McDonough St, Su. 700
Decatur, GA 30030

Executed this 2nd day of December, 2015.

Respectfully Submitted,
~~s/~~ Romel Malino Manacois
Appellant. PRO-SE
~~s/~~ Romel Malino Manacois
GDC# 1288128
Coffee Corr. Facility
P.O. Box 650
Nicholls, GA 31554-0650

ORDER APPEALED

IN THE SUPERIOR COURT OF DEKALB COUNTY Index 1

STATE OF GEORGIA

THE STATE OF GEORGIA	:	
	:	
vs.	:	Case No. 08CR1899-7
	:	
ROMEL MOLINA MANAOIS,	:	
	:	
Defendant	:	

JURY VERDICT

We, the jury, find the defendant

( ) Not Guilty

(X) Guilty of Aggravated Assault

This the 26 day of August, 2008.

/s/ Dennis J. Wills
Foreperson

Filed 26 Day of August, 2008
Linda Carter
Clerk of Superior Court

IN THE SUPERIOR COURT FOR THE COUNTY OF DEKALB
STATE OF GEORGIA

COPY

STATE OF GEORGIA	)	
	)	
	)	INDICTMENT NO.
VS.	)	08-CR-1899-7
	)	
	)	
ROMEL MOLINA MANAOIS	)	

- - -

TRANSCRIPT OF THE JURY TRIAL PROCEEDINGS HELD IN THE ABOVE-STYLED CASE BEFORE THE HONORABLE DANIEL M. COURSEY, JR., SUPERIOR COURT JUDGE, AT THE DEKALB COUNTY COURTHOUSE, DECATUR, DEKALB COUNTY, GEORGIA, ON AUGUST 25 - 26, 2008.

- - -

A P P E A R A N C E S:

FOR THE STATE: DARIUS PATILLO,
ASSISTANT DISTRICT ATTORNEY

FOR THE DEFENDANT: JENNIFER SNYDER,
ASSISTANT PUBLIC DEFENDER

LISA R. JESSUP
OFFICIAL COURT REPORTER
DEKALB COUNTY COURTHOUSE
DECATUR, GEORGIA 30030

LINDSEY. THANK YOU.

THE COURT: YOU MAY STEP DOWN. THANK YOU.

MR. PATILLO: I JUST HAVE ONE MORE QUESTION, JUDGE.

THE COURT: ALL RIGHT.

BY MR. PATILLO:

Q PEACHTREE INDUSTRIAL WHERE THIS SHOOTING TOOK PLACE AT 5900 PEACHTREE INDUSTRIAL, THAT AREA WHERE THE PLAZA IS, IS THAT DEKALB COUNTY?

A YES, IT IS.

MR. PATILLO: NO FURTHER QUESTIONS.

THE COURT: YOU MAY STEP DOWN. YOU MAY CALL YOUR NEXT WITNESS.

MR. PATILLO: THANK YOU, JUDGE. YOUR HONOR, AT THIS TIME THE STATE RESTS.

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, PLEASE RETIRE TO THE JURY ROOM FOR A FEW MINUTES.

(THE JURY RETIRED FROM THE COURTROOM.)

THE COURT: MR. MANAOIS, YOU CAN SIT DOWN.

THE DEFENDANT: (COMPLIES.)

THE COURT: I WILL GIVE YOU SOME INSTRUCTIONS ABOUT YOUR RIGHTS TO TESTIFY OR NOT TO TESTIFY AND ASK YOU A COUPLE OF QUESTIONS WHICH YOU NEED TO ANSWER YES OR NO. IF YOU NEED TO TALK WITH YOUR COUNSEL BEFORE ANSWERING, PLEASE DO SO.

YOU HAVE THE RIGHT TO TESTIFY OR NOT TO TESTIFY. IF

MS. SNYDER: WELL, I TRIED.

MR. PATILLO: JUDGE, JUST FOR THE RECORD, THAT IS AN ACTUAL PATTERN CHARGE FROM THE CHARGE BOOK, SO.

MS. SNYDER: I UNDERSTAND.

(THE JURY ENTERED THE COURTROOM.)

THE COURT: MS. TIBBS, ARE YOU THE FOREPERSON?

THE FOREPERSON: YES, SIR.

THE COURT: HAS THE JURY REACHED A VERDICT?

THE FOREPERSON: WE HAVE, YOUR HONOR.

THE COURT: WOULD YOU PLEASE HAND IT TO THE DEPUTY AND I WILL LOOK AT IT AND GIVE IT BACK TO YOU TO READ.

THE FOREPERSON: (COMPLIES.)

THE COURT: WOULD YOU PLEASE STAND AND READ THE VERDICT.

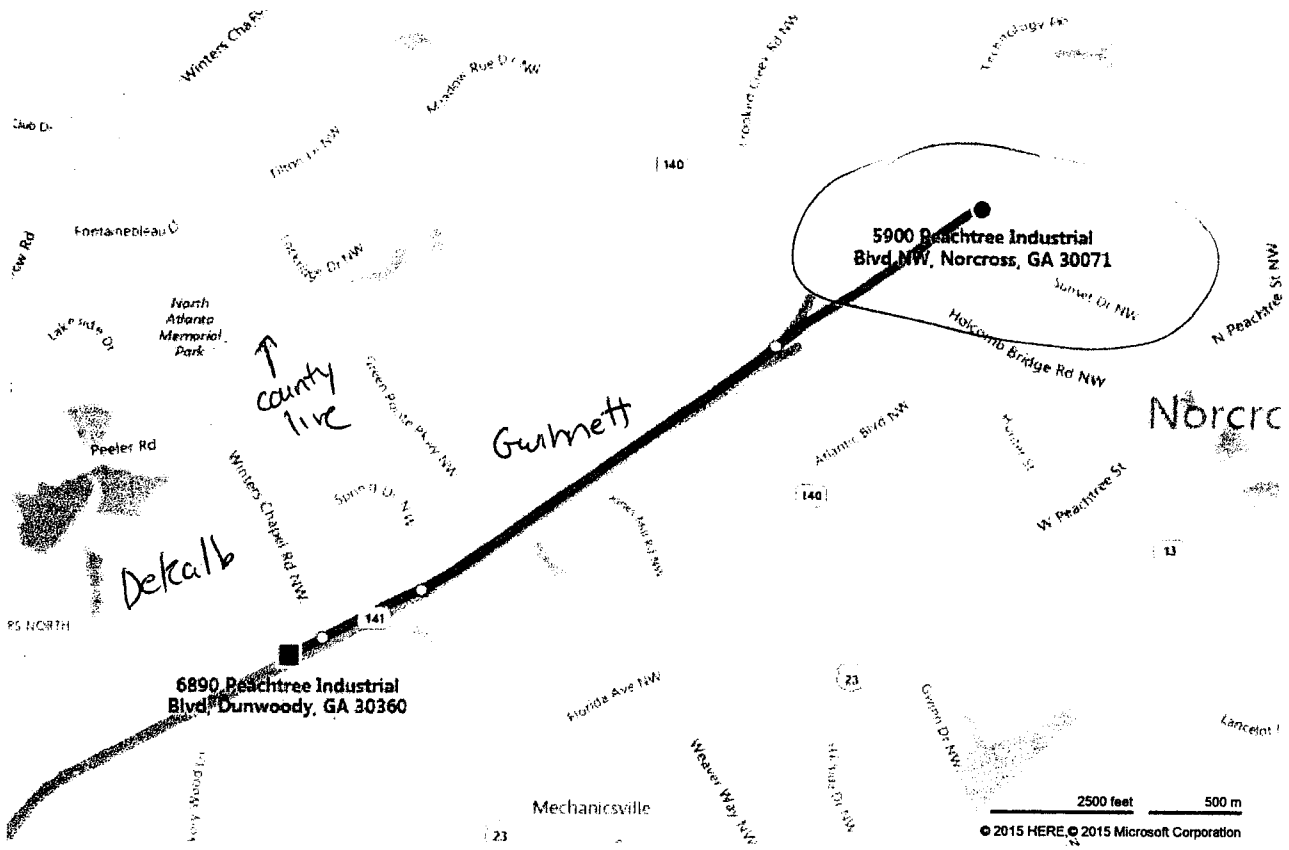
THE FOREPERSON: WE, THE JURY, FIND THE DEFENDANT GUILTY OF AGGRAVATED ASSAULT.

THE COURT: IS THAT DATED AND SIGNED BY YOU AS FOREPERSON?

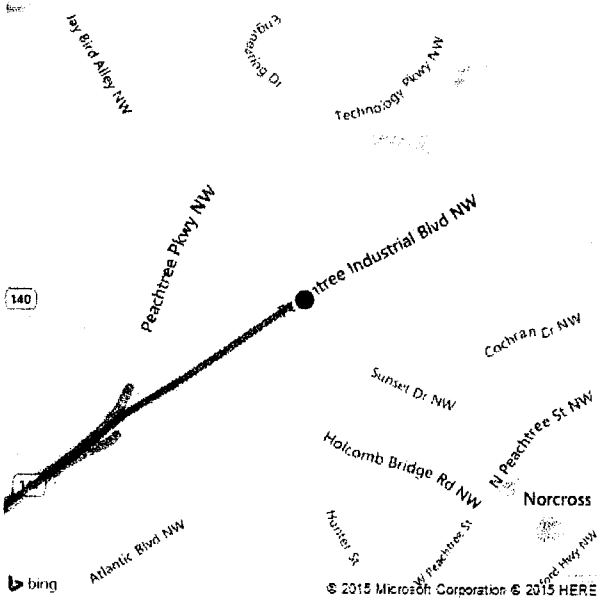
THE FOREPERSON: THIS, THE 26TH DAY OF AUGUST, YES, SIR.

THE COURT: PLEASE HAND IT BACK TO THE DEPUTY AND SHE WILL SHOW IT TO COUNSEL SEE IF THERE IS ANY OBJECTION TO FORM.

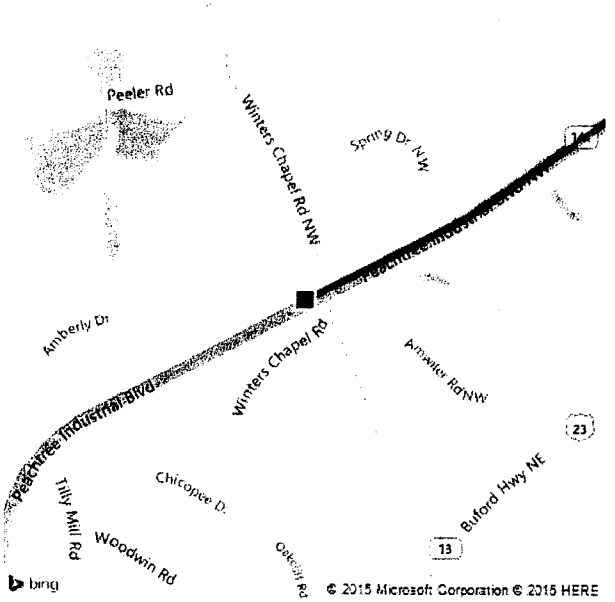
MS. SNYDER: NO OBJECTION AS TO FORM FROM THE DEFENSE, YOUR HONOR.



5900 Peachtree Industrial Blvd NW, Norcross, GA...



6890 Peachtree Industrial Blvd, Dunwoody, GA 30...



bing maps

03 min — Heavy traffic — 0.8 mi
1 min without traffic
Via GA-141 S, Peachtree Industrial Blvd NW

Peachtree Industrial Blvd NW, Peachtree Corners, GA 30071

↑ Depart GA-141 S / Peachtree Industrial Blvd NW toward N Shallowford Rd
▲ *Serious Congestion*

0.3 mi

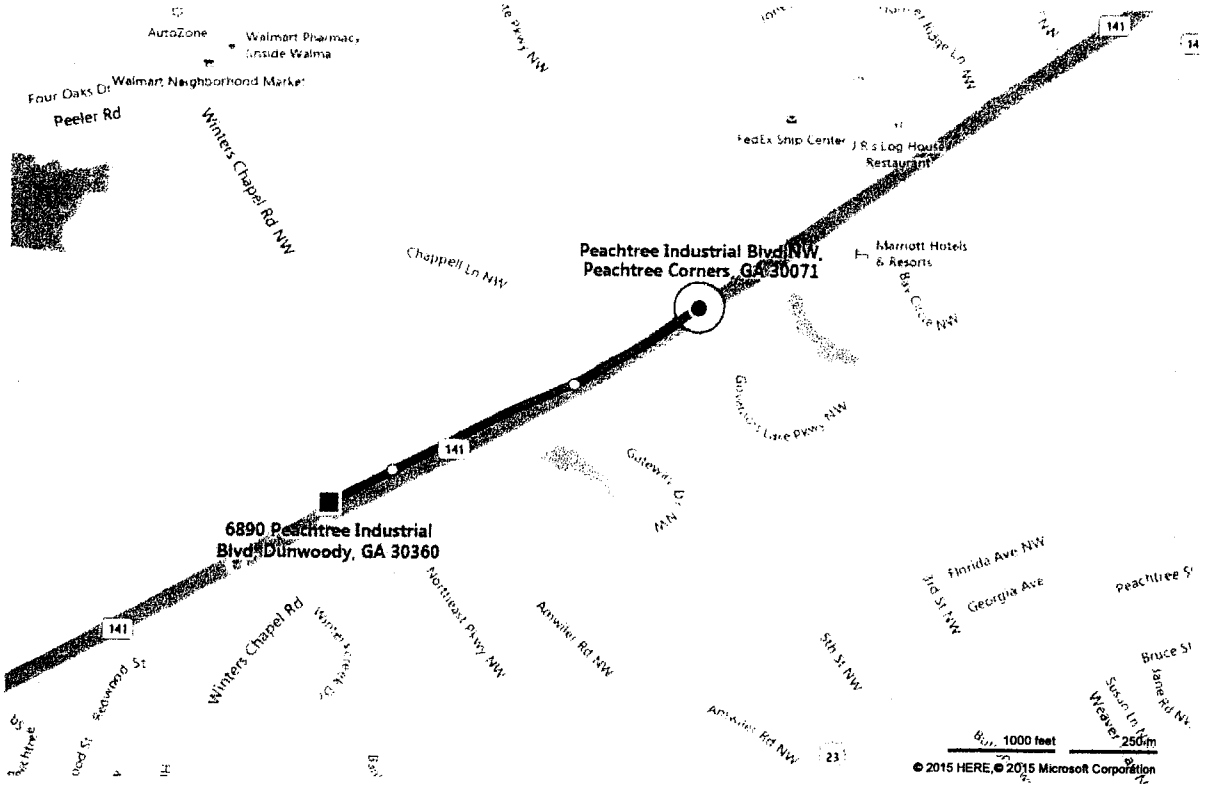
↗ Take ramp right for Peachtree Industrial Blvd NW toward Amwiler Road / Winters Chapel Road

0.4 mi

↑ Keep straight onto Peachtree Industrial Blvd

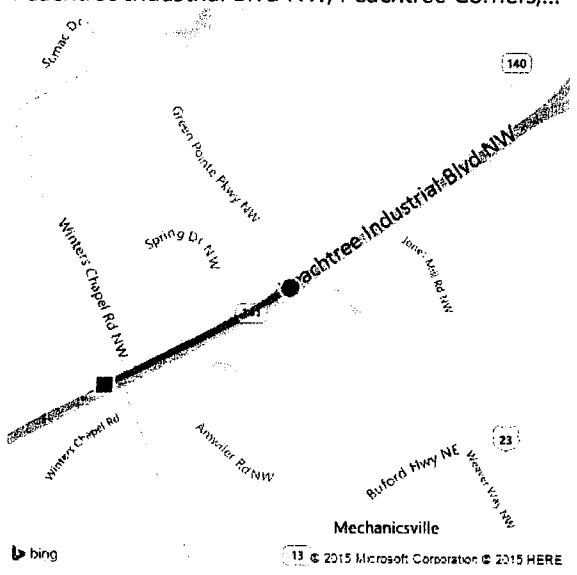
0.1 mi

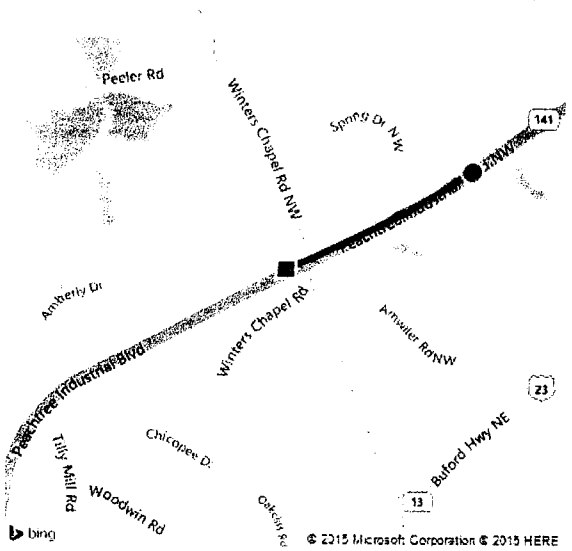
Arrive at Peachtree Industrial Blvd
If you reach Peachtree Place Pkwy, you've gone too far
6890 Peachtree Industrial Blvd, Dunwoody, GA 30360



Peachtree Industrial Blvd NW, Peachtree Corners,...

6890 Peachtree Industrial Blvd, Dunwoody, GA 30...





IN THE COURT OF APPEALS

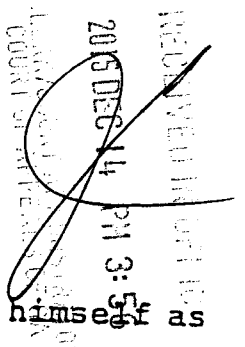
STATE OF GEORGIA

ROMEL MOLINA MANAOIS,
Defendant

vs.

STATE OF GEORGIA,

Court of Appeals
Docket #



AFFIDAVIT OF POVERTY

I, Romel M. Manaois, being first duly sworn, identifies himself as the Defendant in the above-styled action and states upon his oath that he is an indigent state prisoner and that on account of his poverty cannot pay the fees and costs normally required to file and proceed in an action of this nature.

He executes this oath in order that he may proceed in forma pauperis. Executed this 8th day of Dec., 2015

/s/ Romel M. Manaois
Defendant
/p/ Romel Molina Manaois
GDC# 1288128
CCF
PO Box 650
Nicholls, GA 31554-0650

Sworn to and subscribed before me
this 8th day of Dec., 2015

NOTARY PUBLIC
(My commission expires: _____.)