

IN THE SUPERIOR COURT OF HALL COUNTY  
NORTHEASTERN JUDICIAL CIRCUIT  
STATE OF GEORGIA

INDICTMENT

WITNESSES

CASE NO. \_\_\_\_\_  
January Term, 2010

THE STATE OF GEORGIA

vs.

**BRIAN MARTIN RIVERA,  
DANIEL VILCHIS-AYALA AND NELSON VACA**

OFFENSE(S): FELONY MURDER (AS TO RIVERA AND VILCHIS-AYALA); FELONY MURDER (AS TO NELSON VACA); AGGRAVATED BATTERY (AS TO RIVERA AND VILCHIS-AYALA); AGGRAVATED ASSAULT (AS TO ALL); AGGRAVATED ASSAULT (AS TO RIVERA AND VILCHIS-AYALA); ATTEMPTED ARMED ROBBERY (AS TO ALL); BURGLARY (AS TO ALL); KIDNAPPING WITH BODILY INJURY (AS TO VILCHIS-AYALA AND RIVERA); FALSE IMPRISONMENT (AS TO VILCHIS-AYALA); VIOLATION OF STREET GANG TERRORISM AND PREVENTION ACT (AS TO ALL)

True Bill  
Lerra P Pope  
Foreperson

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:  
**GUILTY NOT GUILTY NOLO CONTENDERE**  
This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Defendant

Attorney for Defendant

By: \_\_\_\_\_  
Assistant District Attorney

LEE DARRAGH, District Attorney

Investigator Richard Trinkwalder, Hall County Sheriff's Office

Lieutenant Gerald Couch, Hall County Sheriff's Office

Sergeant Sean McCusker, Hall County Sheriff's Office

Investigator Paul House, Gang Task Force

FILED  
HALL COUNTY, GA  
2010 APR 22 PM 1:52  
JACQUELINE B. CLARK  
CLERK  
SUPERIOR COURT

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:  
**GUILTY NOT GUILTY NOLO CONTENDERE**  
This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Defendant

Attorney for Defendant

By: \_\_\_\_\_  
Assistant District Attorney

**PLEA ENTRIES (CONTINUED FROM PAGE 1)**

**WITNESSES (CONTINUED FROM PAGE 1)**

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:  
**GUILTY NOT GUILTY NOLO CONTENDERE**  
This \_\_\_ day of \_\_\_\_\_, 20 \_\_\_.

Defendant

Attorney for Defendant

By: \_\_\_\_\_  
Assistant District Attorney

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:  
**GUILTY NOT GUILTY NOLO CONTENDERE**  
This \_\_\_ day of \_\_\_\_\_, 20 \_\_\_.

Defendant

Attorney for Defendant

By: \_\_\_\_\_  
Assistant District Attorney

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:  
**GUILTY NOT GUILTY NOLO CONTENDERE**  
This \_\_\_ day of \_\_\_\_\_, 20 \_\_\_.

Defendant

Attorney for Defendant

By: \_\_\_\_\_  
Assistant District Attorney.

FILED  
JUL 11 09 AM  
2010 APR 22 PM 1:52  
CHASHER D. STINE CLERK  
SUPERIOR COURT  
BY \_\_\_\_\_

**BILL OF INDICTMENT**

FILED  
HALL COUNTY

2010 APR 22 PM 1:52

CHARLES W. WALKER, CLERK  
SUPERIOR STATE COURT

BY \_\_\_\_\_ *Cf*

STATE OF GEORGIA, COUNTY OF HALL  
IN THE SUPERIOR COURT OF SAID COUNTY

THE GRAND JURORS SELECTED, CHOSEN AND SWORN FOR THE COUNTY OF HALL, TO-WIT:

~~James F. Mercer~~  
Joseph Harley Bagby  
Margie Nash  
Jonathan Blake Gillespie  
Jennifer B. Killingsworth  
Wilburn Cantrell  
Gennie Lyn Gibbs-Carter  
David R. Tatum

Jerry S. Coker  
~~Catherine Rosa~~  
Henry T. Trotman  
Lona P. Pope  
~~Brant V. Sutphin~~  
Loretta Hooper  
Patricia F. Jennings  
Robert Grady Truelove

~~Robert Harrison, Jr.~~  
Barbara A. Ray  
Cheryl L. Johnson  
Linda L. Bull  
David W. Stribling  
Morris Hollingsworth, Jr.  
~~Lynn S. Kersh~~

In the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **FELONY MURDER**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime unlawfully while in the commission of the following felonies: (1) Aggravated Battery, as factually set out in Count 3 of this indictment, the language therein being incorporated by reference in this count; (2) Aggravated Assault, as factually set out in Counts 4 and 5 of this indictment, the language therein being incorporated by reference in this count; (3) False Imprisonment, as factually set out in Count 10 of this indictment, the language therein being incorporated by referenced in this count; (4) Burglary, as factually set out in Count 8 of this indictment, the language therein being incorporated by reference in this count, cause the death of Ramon Hernandez, a human being, said death occurring on and between March 16, 2010 and March 17, 2010, the exact date being unknown to the Grand Jurors, by beating and hitting Ramon Hernandez with a firearm and by inflicting blunt force trauma to the head of Ramon Hernandez, each felony herein enumerated being an independent underlying felony of the offense of felony murder, in violation of O.C.G.A. § 16-5-1, contrary to the laws of said State, the good order, peace and dignity thereof.

**COUNT TWO**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **NELSON VACA** with the offense of **FELONY MURDER**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime unlawfully while in the commission of the following felonies: (1) Aggravated Assault, as factually set out in Count 4 of this indictment, the language therein being incorporated by reference in this count; (2) Burglary, as factually set out in Count 8 of this indictment, the language therein being incorporated by reference in this count, cause the death of Ramon Hernandez, a human being, said death occurring on and between March 16, 2010, and March 17, 2010, the exact date being unknown to the Grand Jurors, by acting as a party to the crime of Burglary and Aggravated Assault with Brian Martin Rivera and Daniel Vilchis-Ayala, each felony herein enumerated being an independent underlying felony of the offense of felony murder, in violation of O.C.G.A. § 16-5-1, contrary to the laws of said State, the good order, peace and dignity thereof.


**COUNT THREE**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **AGGRAVATED BATTERY**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime maliciously cause bodily harm to the person of Ramon Hernandez, by seriously disfiguring a member of his body, to-wit: his head and face, by striking Ramon Hernandez repeatedly with a firearm and by inflicting blunt force trauma to the head of Ramon Hernandez, in violation of O.C.G.A. § 16-5-24(a), contrary to the laws of said State, the good order, peace and dignity thereof.

FILED  
 2010 APR 22 PM 1:51  
 CLERK OF SUPERIOR COURT  
 HALL COUNTY, GEORGIA

**COUNT FOUR**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA, DANIEL VILCHIS-AYALA AND NELSON VACA** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime assault another, to-wit: Ramon Hernandez, with the intent to rob in violation of O.C.G.A. § 16-5-21(a)(1), contrary to the laws of said State, the good order, peace and dignity thereof.

FILED  
2010 APR 22 PM 1:51  
CLERK  
SUPERIOR COURT  
BY 

**COUNT FIVE**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime assault another, to-wit: Ramon Hernandez, with a firearm, an object which, when used offensively against a person actually does result in serious bodily injury, by striking Ramon Hernandez on and about the head and face repeatedly with a firearm and by inflicting blunt force trauma to the head of Ramon Hernandez, in violation of O.C.G.A. § 16-5-21(a)(2), contrary to the laws of said State, the good order, peace and dignity thereof.

**COUNT SIX**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **ATTEMPTED ARMED ROBBERY**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime with intent to commit the crime of Armed Robbery, O.C.G.A. § 16-8-41, perform acts, to-wit: travel to 1350 Marlow Drive, Lot 23, and repeatedly strike Ramon Hernandez with a firearm, an offensive weapon, with intent to commit a theft from the immediate presence of Ramon Hernandez, which constituted substantial steps toward the commission of said crime, in violation of O.C.G.A. § 16-8-41, contrary to the laws of said State, the good order, peace and dignity thereof.


FILED  
2010 APR 22 PM 1:51  
CLERK  
SUPERIOR COURT  
BY \_\_\_\_\_

**COUNT SEVEN**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **NELSON VACA** with the offense of **ATTEMPTED ARMED ROBBERY**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime with intent to commit the crime of Armed Robbery, O.C.G.A. § 16-8-41, perform an act, to-wit: travel to 1350 Marlow Drive, Lot 23, with Brian Martin Rivera and Daniel Vilchis-Ayala with knowledge that Rivera and Vilchis-Ayala would attempt to take property from the immediate presence of Ramon Hernandez with an offensive weapon, to-wit: a firearm, which constituted a substantial step toward the commission of said crime, in violation of O.C.G.A. § 16-8-41, contrary to the laws of said State, the good order, peace and dignity thereof.

**COUNT EIGHT**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA, DANIEL VILCHIS-AYALA AND NELSON VACA** with the offense of **BURGLARY**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did directly and as a party to the crime without authority and with the intent to commit a theft therein enter the dwelling house of another, to-wit: Ramon Hernandez, located at 1350 Marlow Drive, Lot 23, in violation of O.C.G.A. § 16-7-1, contrary to the laws of said State, the good order, peace and dignity thereof.

FILED  
2010 APR 22 PM 1:51  
GRAND JURY  
SUPERIOR COURT  
BY 

**COUNT NINE**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **KIDNAPPING WITH BODILY INJURY**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did abduct and steal away Ramon Hernandez, a person, without lawful authority or warrant and hold said person against his will, said person having received bodily injury, to-wit: blunt force trauma and numerous lacerations to the head and face, in violation of O.C.G.A. §16-5-40, contrary to the laws of said State, the good order, peace and dignity thereof.

**COUNT TEN**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA AND DANIEL VILCHIS-AYALA** with the offense of **FALSE IMPRISONMENT**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, did in violation of the personal liberty of Ramon Hernandez detain and confine said person without legal authority in violation of O.C.G.A. § 16-5-41, contrary to the laws of said State, the good order, peace and dignity thereof.

FILED  
MAY 11 2010  
2010 APR 22 PM 1:51  
CLERK OF SUPERIOR COURT  
BY \_\_\_\_\_

**COUNT ELEVEN**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **BRIAN MARTIN RIVERA, DANIEL VILCHIS-AYALA AND NELSON VACA** with the offense of **VIOLATION OF STREET GANG TERRORISM AND PREVENTION ACT**, for that the said accused in the County of Hall and the State of Georgia on the **sixteenth day of March, 2010**, being associated with a criminal street gang, to-wit: SUR 13 aka Surenos 13, did directly and as a party to the crime participate in criminal street gang activity through the commission of a criminal offense involving violence, to-wit: Felony Murder, Attempted Armed Robbery, Aggravated Battery and Aggravated Assault, in violation of O.C.G.A. §16-15-4, contrary to the laws of said State, the good order, peace and dignity thereof.