

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

INDICTMENT

WITNESSES

CASE NO. 2009CR858J
July Term, 2009

Investigator Paul House, Gang Task Force (770) 297-2291

Investigator Donald McDuffie, Hall County Sheriff's Office (770) 531-6879

THE STATE OF GEORGIA

vs.

ROBERT JACOB MONTEZ, AKA "SOLDIER"
AND
MIGUEL GUERRA GARCIA, AKA "SMILEY"

OFFENSE(S): MALICE MURDER (AS TO EACH); FELONY MURDER (AS TO EACH); AGGRAVATED ASSAULT (10 COUNTS) (AS TO EACH); AGGRAVATED BATTERY (AS TO EACH); TERRORISTIC ACTS (AS TO EACH); PARTICIPATION IN CRIMINAL STREET GANG (AS TO EACH); PARTICIPATION IN CRIMINAL STREET GANG (AS TO MONTEZ ONLY); POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY (9 COUNTS) (AS TO MONTEZ ONLY); TERRORISTIC THREATS (AS TO MONTEZ ONLY); THEFT BY RECEIVING A FIREARM (AS TO MONTEZ ONLY)

Tina Bill
[Signature]
Foreperson

The Defendant herein waives formal arraignment/indictment by grand jury and pleads:
GUILTY NOT GUILTY NOLO CONTENDERE
This ___ day of _____, 200__.

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 _____, 200__.

Defendant

Attorney for Defendant

By: _____
Assistant District Attorney

FILED
HALL CO., GA.
2009 AUG 20 PM 5:08
CHARLES BAKER, CLERK
SUPERIOR-STATE COURT
BY [Signature]

STATE OF GEORGIA, COUNTY OF HALL
I Charles Baker, Clerk of Superior Court in and for said County do hereby certify that the within is a true and correct copy of the original as it appears on file in this office.
Witness my official seal and signature of
Superior Court
this 21 day of Aug, 2009
[Signature]
Clerk, Deputy Clerk Hall Superior Court

FILED
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2009 AUG 20 PM 5:08

CHARLES BAKER, CLERK
SUPERIOR-STATE COURT
BY Ck

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 _____, 200__.

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 _____, 200__.

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 _____, 200__.

Defendant

Attorney for Defendant

By: _____
Assistant District Attorney.

BILL OF INDICTMENT

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

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

Janice C. Bryans
 Kathleen J. Gailey
 David Cranmer
~~Keith James Grogan, Jr.~~
~~Bradley Mize~~
 Shirley Smallwood Allison
 Eunice England
 Lynda G. Davis

Kenneth Gregory Brown
 Richard Hunt, Jr.
 Daniel L. Strickland
 Donald M. Jackson
 Peggy A. Glass
 Evelyn W. Lay
 Dana D. Pudenz
~~Johanna Cote~~

Michele W. Williams
 Deborah A. Owen
 Judy C. Mecum
 Linda Barton Nix
 David L. Pate
 Robert L. Hamrick, Jr.
 Juanita M. Lockwood

In the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **MALICE MURDER**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did with malice aforethought cause the death of Juan Gomez, a human being, by shooting him with a handgun, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, in violation of O.C.G.A. § 16-5-1, contrary to the laws of said State, the good order, peace and dignity thereof.

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CHARLES BAKER, CLERK
SUPERIOR-STATE COURTBY CB**COUNT TWO**

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **FELONY MURDER**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did while in the commission of felonies, to-wit: Aggravated Assault as alleged in Count Three of this Indictment; Aggravated Assault as alleged in Count Nine of this Indictment; Terroristic Act as alleged in Count Fourteen of this Indictment; and Participation in Criminal Street Gang Activity as alleged in Count Fifteen of this Indictment cause the death of Juan Gomez, a human being, by shooting him with a handgun, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, 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 **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did assault another, to-wit: Juan Gomez, with a deadly weapon, to-wit: a handgun, by shooting him, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia being a party to the crime, 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 FOUR

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED BATTERY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did maliciously cause bodily harm to the person of Nagan Le by rendering useless members of his body, to-wit: internal organs, by shooting him, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, 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.

COUNT FIVE

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did assault another, to-wit: Nagan Le, with a deadly weapon, to-wit: a handgun, by shooting him, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, 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.

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CHARLES BAKER, CLERK
SUPERIOR-STATE COURT
BY _____ CF

COUNT SIX

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did assault another, to-wit: Pedro Fernando Salcedo, with a deadly weapon, to-wit: a handgun, by shooting him, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, 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 SEVEN

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SUPERIOR-STATE COURT
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AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did assault another, to-wit: Francisco Amaya, with a deadly weapon, to-wit: a handgun, by shooting him, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, 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 TEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did make an assault upon the person of Nagan Le by discharging a firearm toward said person from within a motor vehicle without legal justification, Robert Jacob Montez discharging said firearm, and Miguel Guerra Garcia acting as a party to the crime, in violation of O.C.G.A. § 16-5-21(a)(3), contrary to the laws of said State, the good order, peace and dignity thereof.

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BY _____

COUNT ELEVEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **AGGRAVATED ASSAULT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did make an assault upon the person of Pedro Fernando Salcedo by discharging a firearm toward said person from within a motor vehicle without legal justification, Robert Jacob Montez discharging said firearm, and Miguel Guerra Garcia acting as a party to the crime, in violation of O.C.G.A. § 16-5-21(a)(3), contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT FOURTEEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **TERRORISTIC ACT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did, while not in the commission of a lawful act, shoot at a conveyance, to-wit: an automobile, operated and occupied by passengers, Robert Jacob Montez being the shooter, and Miguel Guerra Garcia acting as a party to the crime, Juan Gomez, Nagan Le, Pedro Francisco Salcedo, and Francisco Amaya suffering serious physical injury as a direct result of said act, in violation of O.C.G.A. § 16-11-37(b)(2) and (c), contrary to the laws of said State, the good order, peace and dignity thereof

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COUNT FIFTEEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER" AND MIGUEL GUERRA GARCIA AKA "SMILEY"** with the offense of **PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did while associated with the criminal street gang SUR 13, conduct and participate in criminal street gang activity through the commission of criminal offenses involving violence, possession of a weapon, and use of a weapon as enumerated in Counts One through Fourteen of this Indictment inclusive, in violation of O.C.G.A. § 16-15-4(a) and O.C.G.A. § 16-15-3(1)(j), contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT SIXTEEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **PARTICIPATION IN CRIMINAL STREET GANG ACTIVITY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did commit the offense enumerated in Counts One through Fourteen of this Indictment inclusive, with the intent to maintain and increase his status and position in the criminal street gang SUR 13, in violation of O.C.G.A. §16-5-4(c), contrary to the laws of said State, the good order, peace and dignity thereof.


COUNT SEVENTEEN

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BY 

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Malice Murder, as alleged in Count One of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT EIGHTEEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Felony Murder, as alleged in Count Two of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

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BY 


COUNT NINETEEN

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Assault upon Juan Gomez, as alleged in Counts Three and Nine of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Battery upon Nagan Le, as alleged in Count Four of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY-ONE

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BY 

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Assault upon Nagan Le, as alleged in Counts Five and Ten of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY-TWO

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Assault upon Pedro Fernando Salcedo, as alleged in Counts Six and Eleven of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

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CHARLES BAKER, CLERK
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BY _____

COUNT TWENTY-THREE

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Assault upon Francisco Amaya, as alleged in Counts Seven and Twelve of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY-FOUR

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Aggravated Assault upon Domingo Mojica, Jr., as alleged in Counts Eight and Thirteen of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

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CHARLES BAKER, CLERK
SUPERIOR-STATE COURT
BY _____ *CB*

COUNT TWENTY-FIVE

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did have on and within arm's reach of his person a firearm, to-wit: a handgun, during the commission of a crime, to-wit: Terroristic Act, as alleged in Count Fourteen of this Indictment, in violation of O.C.G.A. § 16-11-106, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY-SIX

AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **TERRORISTIC THREAT**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did threaten to commit a crime of violence, to-wit: Murder, against another, to-wit: Investigator Paul House, with the purpose of terrorizing said person in violation of O.C.G.A. § 16-11-37, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWENTY-SEVEN

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AND THE GRAND JURORS, aforesaid, in the name and on behalf of the citizens of Georgia, charge and accuse **ROBERT JACOB MONTEZ AKA "SOLDIER"** with the offense of **THEFT BY RECEIVING A FIREARM**, for that the said accused in the County of Hall and the State of Georgia on the **NINTH DAY OF AUGUST, 2009**, did retain a stolen firearm, to-wit: a 9 millimeter handgun, the property of Robert Eugene Phillips, which he knew and should have known was stolen, said firearm not having been retained with the intent to restore said firearm to the owner in violation of O.C.G.A. § 16-8-7, contrary to the laws of said State, the good order, peace and dignity thereof.