



## The DeKalb County District Attorney's Office

Stone Mountain Judicial Circuit  
Suite 700, DeKalb County Courthouse  
556 N. McDonough Street  
Decatur, Georgia 30030

Phone: (404) 371-2561 Fax: (404) 371-2981  
Web: <http://www.dekalbda.org>

**FOR IMMEDIATE RELEASE**

January 12, 2009

**CONTACT: Jada K. Hudspeth**

*Public Information Officer*

(404) 371-4976 Office

[jkhudspeth@co.dekalb.ga.us](mailto:jkhudspeth@co.dekalb.ga.us)

### **DEKALB DA'S OFFICE PREVAILS IN GANG ACT APPEAL**

#### ***Georgia Supreme Court Unanimously Upheld Constitutionality of Georgia Gang Statute***

**DEKALB** – DeKalb County District Attorney Gwen Keyes Fleming (Stone Mountain Judicial Circuit) announces the Georgia Supreme Court's unanimous decision holding that the Georgia Street Gang Terrorism and Prevention Act (O.C.G.A. § 16-15-1 et seq.: "The Gang Act") is constitutional. The Court reached this decision in the Case of *Rodriguez v. State*. Defense attorneys from the DeKalb County Office of Public Defender and lawyers for the Southern Center for Civil Rights filed briefs with the state's highest court, claiming that the Gang Act violated the First Amendment's right of association. In this murder and aggravated assault case involving 18<sup>th</sup> Street Gang, one of America's largest and notorious criminal street gangs, the Georgia Supreme Court rejected these claims and upheld the Gang Act as constitutional.

The case arises from a September 29, 2006 shooting and aggravated assaults that occurred outside a DeKalb County Regal Cinema and which Law Enforcement believed to be gang related. The motion to dismiss the case on constitutional grounds was argued on December 3, 2007 before DeKalb County Superior Court Judge Michael E. Hancock, where the defendants challenged the constitutionality of the Georgia Street Gang Terrorism and Prevention Act. Judge Hancock denied this motion on April 17, 2008. Confident in the constitutionality of the Gang Act and the validity of Judge Hancock's ruling, District Attorney Fleming did not oppose the interlocutory appeal, which took *Rodriguez v. State* to the Georgia Supreme Court prior to a final resolution of the case.

"I am very pleased by the outcome of the Supreme Court's ruling in *Rodriguez v. State*, I believe prosecutors across the State of Georgia will now be able to use the Gang Act more aggressively in their efforts to prosecute and combat criminal street gangs, and protect their communities from the crimes that they commit and the violence that they create."

District Attorney Fleming applauds the remarkable efforts of the District Attorney's Office Gang Unit, lead by Deputy Chief Assistant District Attorney Michael Carlson, the DA's Office Appellate and Juvenile Court Units. She also give special thanks to Attorney John Floyd and the as well as the Atlanta law firm Bondurant, Mixson and Elmore, who acted as a special assistant district attorney on the case. Attorney Floyd is a partner with that firm and a nationally recognized RICO law expert who also assisted in the prosecution of former Sheriff Sidney Dorsey for the murder of Sheriff Elect Derwin Brown.

"The people of DeKalb County and the State of Georgia have all benefited from having an attorney the caliber of John Floyd and a law firm the prestige of Bondurant, Mixson and Elmore contribute so generously in this appeal."

“Once again, Bondurant, Mixson and Elmore have demonstrated that its reputation as a dedicated group of preeminent, civic minded attorneys can not be overstated.” She added, “This is yet another example of public and private partnerships that benefit DeKalb County.”

The DA also notes the vital contributions of numerous organizations which filed *amicus curiae* (“friend of court”) briefs in support of the DeKalb County District Attorney in the case. Those include: The Cities of Johns Creek and Sandy Springs (represented by Georgia State Representative Wendell Willard and attorneys William Riley and Donald Henderson); the Georgia Gang Investigators Association (represented by attorney Lee Wall Oxendine Shafer); and the Georgia Association of Chiefs of Police (represented by Attorney Michael Caldwell). She is also grateful to the Georgia Prosecution Attorney’s Council, especially to Senior Staff Attorney Charles Olson for their support.

District Attorney Fleming added with regard to Representative Willard: “Rep. Willard’s willingness to add to his many responsibilities and join in this appeal shows what a dedicated public servant that he truly is.”

The Gang Unit was established in the DA’s Office in May 2007 and Deputy Chief Assistant Prosecutor Michael Scott Carlson was appointed as Georgia’s first ever dedicated gang prosecutor to address the increased gang activity in DeKalb County. Additional members of the Gang Prosecution Unit team include: Investigator David Rosenthal and Secretary Shana Seawell who are committed to taking a proactive role in applying a holistic approach to combating the dangers of criminal street gang related crime at all levels. The Unit has received national recognitions from the National District Attorney’s Association (NDAA), for being a “Gang Response Model” for the State of Georgia. District Attorney Fleming believes the use of the Gang Act of 2006 will continue to positively impact future prosecution of related cases, leading to just results, and restoration of confidence in making our community a safer place for all to live.

Deputy Chief Assistant District Attorney Mike Carlson, who leads the Gang Unit, argued for the State in this case and lends his time to numerous training seminars and conferences to help educate law enforcement and the community at large in the use and application of Georgia’s gang laws.

###

***Protection \* Prevention \* Peace of Mind***