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IN THE STATE COURT OF CLAYTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,) CASE NO.: 2014CR06102
-VS-)
JEFFREY ALLEN LEISING,)
Defendant.) EXCERPTED TRANSCRIPT

The above-entitled matter came on for hearing before the HONORABLE JOHN C. CARBO, III, Chief Judge, State Court of Clayton County, on Wednesday, October 29, 2014, at the Harold R. Banke Justice Center, courtroom 301.

APPEARANCES OF COUNSEL

For the State of Georgia: Shalonda Jones-Parker
Assistant Solicitor General
For the Defendant: John R. Monroe
Attorney at Law

1 building. So, therefore, the State has failed to prove a
2 necessary element of Count Number 1; that is, that it was
3 a government building.

4 Because of that, Count number 2 would also fail
5 because the criminal purpose that was alleged in Count 2
6 was that the weapon was carried in an unauthorized
7 location. Because it wasn't a government building, or the
8 State failed to prove that it was a government building,
9 it also -- that would also fail the criminal trespass,
10 Count Number 2.

11 In addition, in order for it to have been a weapon
12 carried in a government building, the State would have had
13 to prove that it was a weapon under 16-11-125.1, which
14 defines a weapon as a knife or a handgun. There wasn't
15 talk of a knife. So, presumably, we're talking about a
16 handgun. But in order to qualify for a handgun, the State
17 would have to prove that the firearm in question had a
18 barrel length not to exceed 12 inches and that it doesn't
19 discharge a single shot of .46 centimeters or less. The
20 State failed to do that. Those definitions are all in
21 16-11-125.1.

22 And finally, in order for it to qualify as a
23 government building, because Mr. Leising had a weapons
24 carry license, he was authorized by 16-11-127(c) to carry
25 a weapon in any location in the state, and he is also

1 authorized to carry a weapon in a government building
2 unless the building is restricted or screened by security
3 personnel and he was told upon -- and he did not leave
4 upon being notified that he did not clear security.

5 The officers testified that they didn't do any kind
6 of screening designed to detect weapons. They didn't do
7 any metal detection. They didn't do any searches of bags
8 or pat-downs of persons. So there was no security
9 screening that qualified under 16-11-127 as security
10 screening that's required in order for a weapons carry
11 licensure -- licensee to be prohibited from a government
12 building.

13 And finally, he was not told that he did not clear
14 security, and a weapons carry licensee may not be charged
15 under 16-11-127 if he's not told that he failed to clear
16 security and doesn't leave. Because those things didn't
17 happen, did not happen, neither Count 1, nor Count 2 can
18 be sustained. There's no evidence to support them.

19 In addition, for Count Number 2, because the State
20 did introduce evidence that the building in question was
21 owned by the Department of Agriculture, it's not private
22 property.

23 The Legislature changed the law in 16-11-127(c) to
24 say that a person with a weapons carry license can carry a
25 weapon anywhere in the state except the persons in control

1 of private property -- and the word private was just
2 inserted, so it obviously was intended to exclude public
3 property -- private property, but only to the extent that
4 they're allowed to exclude people -- I'm sorry -- exclude
5 or reject people under the trespass law 16-11-127 -- I'm
6 sorry -- 16-7-21(b)(3).

7 But the accusation charges 16-7-21(b)(1), which is
8 remaining -- I'm sorry -- which is entering for an
9 unlawful purpose. And the only permitted trespass charge
10 would be 16-7-21(b)(3), remaining after being told to
11 leave.

12 There was no evidence that he was told to leave. In
13 fact, the person in charge of the show, the GunRunners
14 Show, there were no representatives even called to testify
15 here today to say that they asked him to leave or that he
16 didn't have authority to enter in the first place.

17 So the State also fails to prove that he was without
18 authority to enter because the State introduced evidence
19 that the GunRunners Show was in charge of property that
20 day. So Mr. Leising can't be found guilty of Count 1 and
21 he can't be found guilty of Count 2.

22 Finally, with Count 3, the State really failed to
23 introduce any evidence of some substantial, unjustifiable
24 risk. All they did was enter this evidence that he was
25 carrying a gun, which he was licensed to do. Surely

1 something that the State has licensed him to do cannot be,
2 in and of itself, unjustifiably risky.

3 There's no allegation that he did anything in
4 particular with the firearm other than have it. It's not
5 a matter of, well, he was licensed to drive and then drove
6 recklessly, so if he carried a gun and then used it
7 recklessly. There's nothing like that. The gun didn't go
8 off. He didn't take it out and wave it around. He didn't
9 handle it at all. The only person who handled it was
10 Major Matson.

11 But nothing in particular was done with the gun that
12 created any kind of risk at all any more than any of the
13 other officers who were there with weapons did with their
14 guns, and surely they didn't create some kind of
15 unjustifiable risk.

16 THE COURT: It's true that under Georgia law, is it
17 not, Mr. Monroe, that a person who is -- let's take a
18 licensed person who has a pistol-toting permit, that they
19 can carry a weapon in many locations that may be crowded,
20 populated, elbow-to-elbow people even. That's perfectly
21 legal; is it not?

22 MR. MONROE: Absolutely they can carry a firearm on a
23 MARTA train that's standing-room-only, you know, packed in
24 like sardines, and that's perfectly legal.

25 THE COURT: Okay. Anything else?

1 MR. MONROE: Well, the State also put in the
2 accusation that he carried the -- well, it said he carried
3 a loaded and concealed firearm. There is no crime of
4 carrying a concealed weapon anymore in Georgia. That was
5 repealed four years ago. So there's not really any
6 significance to it being concealed.

7 For that matter, there's no significance to it being
8 loaded. If you look at all the statutes regulating
9 carrying guns, they're indifferent to whether guns are
10 loaded or not. Carrying a gun is either a crime or not a
11 crime because it's carrying a gun, not because it's loaded
12 or unloaded.

13 But anyway, the State also put into the accusation
14 that he received lawful commands not to do so. I would
15 submit that that's just plain not true. There's no
16 evidence that he received any commands at all, let alone
17 that such commands were lawful. And because it was a
18 public building and because he had a license, he couldn't
19 have been given a lawful command not to carry a gun there
20 because he was perfectly entitled to carry a gun there.
21 He had a license to do so. That's all, Your Honor.

22 THE COURT: All right, thank you.

23 Ms. Jones-Parker.

24 MS. JONES-PARKER: Your Honor, a directed verdict
25 will only lie when there is no evidence to support a

1 contrary verdict.

2 As to Count 1, the State did present evidence that
3 the defendant carried a weapon into a government building
4 at the Atlanta Farmer's Market owned by the Georgia
5 Department of Agriculture. The witness, Ms. Thomas, has
6 testified --

7 THE COURT: I think Mr. Monroe concedes there is
8 evidence that was established to be a governmental
9 building.

10 You agree? You conceded that part, at least in your
11 motion, there is some evidence?

12 MR. MONROE: Your Honor, the defense will stipulate
13 that it was a government-owned building.

14 THE COURT: All right. Thank you. All right. So I
15 don't think that's the point. I think his point is (e)(1)
16 of the statute, subsection (e)(1).

17 MS. JONES-PARKER: Okay. Then, I'm sorry, I guess I
18 missed the crux of his argument.

19 THE COURT: I didn't misstate that, did I, Mr.
20 Monroe?

21 MS. JONES-PARKER: It's probably just me
22 misunderstanding.

23 THE COURT: Your argument was basically,
24 pretermittting whether or not it's a governmental building,
25 (e)(1) says a licensed carrier can carry in a governmental

1 building with these somewhat limited exceptions?

2 MR. MONROE: That was one of our arguments, Your
3 Honor. But we also dispute that the State introduced
4 evidence that it was a government building.

5 THE COURT: Let's assume that it was. You stipulated
6 it was, but --

7 MR. MONROE: No, we stipulated that it's government-
8 owned.

9 THE COURT: Okay, government-owned. Whether or not
10 it's occupied or houses a governmental --

11 MR. MONROE: State introduced no evidence it housed a
12 government entity or that a government entity meets there
13 in its official capacity.

14 THE COURT: All right, that's fine.

15 All right, I'm sorry. Go ahead, Ms. Jones-Parker. I
16 didn't mean to cut you off. I slightly misunderstood that
17 part of his argument, but I got the (e)(1) part of his
18 argument, which I think really is the crux of this issue.

19 MS. JONES-PARKER: Well, you know, as to the (e)(1)
20 exception, it states a licensed holder who enters or
21 attempts to enter a government building carrying a weapon
22 where ingress is restricted and screened by security
23 personnel shall be guilty of a misdemeanor if at least one
24 member of the security personnel is a certified peace
25 officer. I believe there was testimony that this

1 particular building was being screened by certified police
2 officers.

3 THE COURT: Okay. But what -- let's assume for a
4 second that it was. You know, screened might mean what we
5 have here at the courthouse.

6 MS. JONES-PARKER: Right.

7 THE COURT: And it might mean officers standing there
8 saying, hey, you got a gun on you, if so you've got to
9 take it out.

10 So suppose it was screened by a law enforcement
11 officer and it does fit that part of (e)(1). What, then,
12 can a law enforcement officer do if he finds someone in
13 possession of a firearm, a handgun?

14 MS. JONES-PARKER: Well, Your Honor, I'm sorry, this
15 statute was recently amended in July, and certainly I
16 prepared this case under the other statute that was in
17 existence at the time the defendant was arrested.

18 But what I'm seeing, it says that he can arrest the
19 defendant and he shall be guilty of a misdemeanor. So I'm
20 not really absolutely sure what --

21 THE COURT: Read the "provided however" after Title
22 35. It says at Chapter 8 of Title 35 provided however.

23 MS. JONES-PARKER: So, I believe the evidence shows
24 that, you know, Mr. Leising did not immediately exit the
25 building or leave the location upon notification of his

1 failure to clear the security. In fact, he never notified
2 security that he had a firearm at all.

3 So, I mean based on my very limited understanding of
4 this new part of the statute, I would just have to submit
5 that we presented evidence that the defendant entered into
6 a government building; and, although he is a licensed
7 holder, he did not notify the certified law enforcement
8 officers who were acting as security and screening of
9 individuals that he had a firearm; and for that reason
10 he's guilty of carrying a weapon in an unauthorized
11 location. Or, at least we have provided a prima facie
12 case that he's guilty of that offense, as to Count 1.

13 THE COURT: All right, very well. Any other
14 argument?

15 MS. JONES-PARKER: As to Count 2, Your Honor, we have
16 presented evidence. Mr. Monroe points to subsection (c)
17 of the paragraph. In the middle it starts with "however,
18 that private property owners or persons in legal control
19 of private property through a lease, rental agreement, et
20 cetera, et cetera, shall have the right to exclude or
21 eject a person who is in possession of a weapon, a long
22 gun, on their private property in accordance with
23 paragraph (3) of subsection (b)," which is the criminal
24 trespass statute.

25 THE COURT: Is this private property?

1 MS. JONES-PARKER: I'm sorry, Your Honor?

2 THE COURT: Is this private property?

3 MS. JONES-PARKER: Your Honor, the State's position
4 is that we have presented evidence, a prima facie case,
5 this was a government building. However, if the evidence
6 is insufficient on that, we have presented evidence that
7 this Exhibit Hall was leased by a private entity, which is
8 the GunRunner Show, and the GunRunner Show put up signs
9 and notice and also had law enforcement officers, security
10 officers, telling individuals that they did not want
11 firearms brought into the location. And this defendant
12 did that in spite of what they chose to do.

13 But the crux of what I'm really trying to get to is
14 that, from my reading of this statute, it does not limit
15 us to charge him with criminal trespass under (b)(3). I
16 don't see where it limits that. We can charge him with
17 criminal trespass however we choose, and --

18 THE COURT: I agree. I agree with you that if you
19 have sufficiently alleged an illegal act -- let me
20 rephrase. I believe that you can have a criminal
21 trespass, you're not limited to the types of criminal
22 trespass. I disagree with Mr. Monroe's argument about
23 that. I think that if it is illegal to enter that
24 building with a firearm, that one can be charged with
25 criminal trespass by entering those premises for an

1 unlawful purpose. I agree with that. So I don't believe
2 he's limited to that particular type of criminal trespass.
3 My question, though, is have you proved that.

4 MS. JONES-PARKER: Your Honor, I think that we have
5 presented evidence of that.

6 THE COURT: Or a prima facie case of that. Let me
7 rephrase that.

8 MS. JONES-PARKER: Well, because this goes to my
9 alternative argument, that if this is not a government
10 building, as indicated under the statute in subsection
11 (b), then it's still an unauthorized location because the
12 private property owners, who were the Gunrunners Show, had
13 indicated they did not want anyone to enter into the
14 property with a loaded firearm, and when this defendant
15 did do that, he entered onto an unauthorized location, and
16 as a result he still violated the criminal trespass law
17 because he did this knowingly and he did it without
18 authority. That evidence definitely came in, that he had
19 no authority to enter onto the premises of Atlanta
20 Farmer's Market for an unlawful purpose.

21 MR. MONROE: Your Honor, there is no --

22 THE COURT: I'll give you a chance to respond in a
23 moment.

24 Anything else you want to argue, Ms. Jones-Parker?

25 MS. JONES-PARKER: As to Count 3, the reckless

1 conduct, Your Honor, I will concede that most of the
2 evidence that I presented that has come out from the
3 officers go to the reckless conduct count. I think that
4 the State has definitely presented a prima facie case on
5 the reckless conduct.

6 THE COURT: Can the mere carrying of a loaded firearm
7 somewhere in the state of Georgia be considered reckless
8 conduct?

9 MS. JONES-PARKER: Not just somewhere in Georgia but
10 where there is the selling and exchange of firearms, and
11 where the owners have told you not to do that, not to
12 bring it onto the property.

13 THE COURT: Why does that make it reckless conduct?

14 MS. JONES-PARKER: As the evidence that came out,
15 Your Honor, from numerous witnesses, Officer Waltrip
16 indicated that there could be accidental discharge. They
17 wanted to deter accidental discharge.

18 THE COURT: Can't there be an accidental discharge
19 any time? I suppose it's always possible that a weapon
20 could accidentally discharge. But isn't it true that
21 there are many locations in the state of Georgia where a
22 licensed firearm carrier can carry, legally carry a weapon
23 in close proximity to many people, close quarters to many
24 people, and why would that not be reckless conduct but
25 this could be?

1 MS. JONES-PARKER: I think that the basic difference
2 between carrying this gun on a crowded MARTA train versus
3 bringing it into a gun show, a loaded firearm into a gun
4 show, will basically boil down -- and I believe that's
5 where he alluded to in his argument -- basically, Your
6 Honor, it boils down to the fact that he was told not to
7 do that, and he received --

8 THE COURT: Well, that might make it carrying a
9 weapon in an unauthorized location. I agree with that.

10 MS. JONES-PARKER: Yes, Your Honor.

11 THE COURT: Does it make it reckless conduct though?
12 Just because somebody says you can't, does that make it
13 any more reckless than if it's a place where you can?

14 MS. JONES-PARKER: I think, Your Honor, the fact that
15 this defendant knew and intentionally decided to go into
16 this gun show, where there is the exchange of firearms and
17 the buying and selling of firearms, knowing that this
18 behavior was not wanted on those premises. I would just
19 rest on the evidence that was presented, that it was
20 reckless in nature.

21 THE COURT: Let me rule what I'm going to rule at
22 this point. If you wish to address anything else, Mr.
23 Monroe, I'll allow you to close.

24 First of all on the reckless conduct, I grant the
25 motion for directed verdict. I do not believe that the

1 mere carrying of a loaded firearm, in and of itself, can
2 be construed as reckless under any circumstances absent
3 some act committed by the person carrying the loaded
4 firearm that somehow elevates the carrying of the loaded
5 firearm to be reckless: waving it around, discharging it
6 into the air, you know, pointing it at exit signs,
7 something like that. That might be reckless conduct.

8 The mere carrying of a weapon in a facility, in and
9 of itself, I believe, under Georgia law, cannot be
10 considered reckless conduct because that conduct is lawful
11 in the overwhelming majority of locations in the state of
12 Georgia with the exception of the few listed in this
13 statute. And if this carrying of the weapon violates some
14 provision of this statute, then it violates some provision
15 of this statute. But it doesn't make it reckless.

16 Reckless is causing an unjustifiable risk to the
17 safety of persons or property. And the mere carrying of a
18 firearm, under Georgia law I believe, as I read it, would
19 never be considered, in and of itself, reckless. So I'm
20 going to grant a directed verdict as to Count 3.

21 As to Count 1, I'm going to find that there is some
22 evidence, at least, that this building is owned by the
23 Department of Agriculture. Now let's assume, for the sake
24 of argument for a brief moment, that there is evidence
25 making it a governmental building, or government building,

1 a government building as defined as -- under
2 16-11(a)(2)(A), a building in which a government entity is
3 housed, whatever that means. I'm not sure what that
4 means. But let's assume for a second it is that, just for
5 the sake of argument. If it is a government building
6 under that definition, then you have to go to (e)(1), a
7 license holder, which the undisputed evidence is that Mr.
8 Leising is a license holder. The evidence of the license
9 has been put into evidence. Major Matson testified he
10 actually saw the license that day.

11 A license holder shall be authorized to carry a
12 weapon in a government building when the government
13 building is open for business and where ingress into such
14 building is not restricted or screened by security
15 personnel. All right.

16 Let's assume for a moment that there is evidence that
17 it was screened by security personnel. There is testimony
18 that officers were, while there were no metal detectors or
19 any sort of screening equipment there, officers were
20 standing there asking people if they had a loaded firearm
21 on them. There's no direct evidence that anyone asked Mr.
22 Leising of that, but there were officers standing there
23 and screening people. Let's take that, if we want to call
24 that screening. There were officers asking.

25 So a license holder who enters or attempts to enter a

1 government building carrying a weapon where ingress is
2 restricted or screened by security personnel shall be
3 guilty of a misdemeanor if at least one member of the
4 security personnel is certified as a peace officer.

5 Well, there's certainly evidence that all of these
6 three officers were certified as peace officers.

7 Provided, however, that a license holder who
8 immediately exits such building or immediately leaves such
9 location upon notification of his or her failing to clear
10 security due to the carrying of a weapon shall not be
11 guilty of violating this subsection or paragraph (1) of
12 subsection (b) of this Code Section.

13 So it seems to me that the only way that a licensed
14 weapon holder can be found guilty under (b)(1) of this
15 subsection, which is what he's accused of in Count 1 of
16 this accusation, carrying a weapon in a government
17 building, it has to be screened. And let's assume that
18 this one was. He has to be notified that you've not
19 cleared screening. And you have to fail to leave the
20 building.

21 If upon -- for example, if you walked into this
22 courthouse, although courthouse is listed as a courthouse,
23 but let's suppose it was across town, the building where
24 the business licenses and all that is housed in the
25 Clayton County building, the old courthouse. And a person

1 walks in there and goes through a screening device and
2 they say wait a minute, sir, you've got a gun. He says
3 I've got a license. They say, okay, take your gun back to
4 your car and come back. Under this Code Section, unless
5 he refuses to do that, he's not guilty of any offense. He
6 can go in, put his gun on a metal detector, show the gun,
7 and if he has a license, basically under 16-11-127(e)(1),
8 has to be allowed to basically leave with the weapon
9 before he is arrested.

10 Shall not be guilty of violating -- and in this case
11 the evidence is undisputed that he was never told to leave
12 the building. There's no evidence he was ever told to
13 leave the building with a firearm. That he simply left.
14 In fact, it wasn't even determined he had the weapon until
15 after he left the building. So he could not have
16 violated, pursuant to (e)(1), could not have violated that
17 and, as incorporated into (e)(1), could not have violated
18 (b)(1).

19 So pretermittng whether or not this was a
20 governmental building, whether or not this was adequate
21 screening, I find that under (e)(1), as it's specifically
22 defined, he cannot be found guilty of that.

23 Although (e)(1) was not in effect at the time this
24 offense alleged to have occurred, the net effect of (e)(1)
25 is decriminalizing conduct that might otherwise have been

1 criminalized under the existing law, and once the
2 legislature decriminalizes acts that were previously
3 criminalized, a person cannot be prosecuted for acts that
4 may have been criminalized at the time but has
5 subsequently been decriminalized. And that is the net
6 effect of (e)(1), as it broadens the definitions of when a
7 person can freely carry a weapon with a permit without
8 risking arrest.

9 So based on that I'm going to grant the motion for
10 directed verdict on Count 1.

11 That leaves us with Count 2. Count 2, of all the
12 demurrers that were filed, one wasn't filed on this point
13 in Count 2, because it says did enter the Atlanta Farmer's
14 Market for an unlawful purpose, specifically to carry a
15 weapon in an unauthorized location.

16 Well, you can carry a weapon in an unauthorized
17 location in several ways, one of which is a government
18 building. I've thrown that one out.

19 The other possibility, it seems to me, and has been
20 argued by the State, would be as defined under subsection
21 (c). Let's read subsection (c). A license holder, Mr.
22 Leising, shall be authorized to carry a weapon as provided
23 in every location in the state not listed in subsection
24 (b), which are courthouses, government buildings, jails,
25 place of worships, mental health facility, nuclear power

1 facility, polling place.

2 A license holder shall be authorized to carry a
3 weapon in every location not listed in that subsection or
4 prohibited in subsection (e). I've already ruled that
5 didn't happen.

6 However, private property owners or persons in legal
7 control of private property through a lease, rental
8 agreement, et cetera, shall have the right to exclude or
9 eject a person who is in possession of a weapon or a long
10 gun on their private property. Okay.

11 So is there any evidence that the person who put up
12 the sign was a, quote, one, a private property owner?
13 Again, the unrebutted evidence in this court today is that
14 this building was owned by the Department of Agriculture.
15 So, by definition, it was not a private property owner.

16 Where a person in legal control of private property
17 through a lease, rental agreement, license, contract, et
18 cetera. Again, the unrebutted evidence in this case, the
19 only evidence in this case is this was not private
20 property, it was publicly owned property.

21 MS. JONES-PARKER: Your Honor, if I may?

22 THE COURT: Yes.

23 MS. JONES-PARKER: And I apologize, but I believe
24 that Ms. Thomas did testify that the premises were leased
25 to GunRunner Shows for that time period.

1 THE COURT: I agree. But under the evidence it might
2 be public property leased to a private entity.
3 Unfortunately, though, this statute does not prohibit
4 that, and criminal statutes must be strictly construed to
5 their most narrow application. This says private property
6 leased to a private group. It does not apply in any way
7 that I see to publicly owned property leased to a private
8 group under subsection (c).

9 The statute may need to be amended, but that's an
10 issue for the legislature because it does not say anything
11 about public property leased to a private corporation or
12 to a private entity. It says a private property owner or
13 a person in legal control of private property through a
14 lease, rental agreement, licensing agreement, contract, et
15 cetera. But again, the unrebutted evidence is that this
16 is publicly owned property, not private property.

17 I'll give you a chance to comment on that if you'd
18 like, Ms. Jones-Parker, but that's the way I read it.

19 MS. JONES-PARKER: Your Honor, I just wanted to state
20 this for the record from the State's perspective. In the
21 event that these proceedings are utilized in subsequent
22 proceedings outside of this court, that private was
23 injected into the statute that was amended on July 1st,
24 2014, and at the time that this incident happened --

25 THE COURT: I agree with that.

1 MS. JONES-PARKER: -- that was not in there.

2 THE COURT: I agree with that. That's correct. But
3 again, what the legislature has in essence done is
4 broadened, by restricting where you can restrict them,
5 they have, in essence, broadened and decriminalized
6 activity that may have been criminalized under the
7 previous statute.

8 MS. JONES-PARKER: That's right, Your Honor. So I
9 just want to make the record clear that at the time this
10 happened the law was different, which is why he was
11 charged the way he was charged.

12 THE COURT: It may well be. Certainly it may well
13 have been, and I believe it was different. But again, we
14 are, once the legislature changes it and in effect
15 decriminalizes conduct that was previously criminalized,
16 the person can no longer be prosecuted for the prior
17 prohibited conduct.

18 Based on that, I believe I have no choice but to
19 grant the motion for directed verdict on Count 2 as well.
20 So that will grant the directed verdict on Counts 1, 2,
21 and 3.

22 I'm going to bring the jury back in, explain that to
23 them. Then we'll be in adjournment.

24 Deputy, would you ask Mr. Hawkins to bring the jury
25 back in?

1 (Thereupon, the jury returned to the
2 courtroom and the following transpired.)

3 THE COURT: Members of the jury, I need to explain
4 something to you that has taken place outside of your
5 presence. First of all, good news or bad news for your
6 part, depending on how you might view it, you will no
7 longer be required to consider this case, and I'm going to
8 excuse you in just a moment. Let me explain to you what
9 has happened outside of your presence just so you'll know.

10 At the close of the State's evidence the defense made
11 a motion for directed verdict on Counts 1, 2, and 3 of
12 this accusation. A motion for directed verdict means that
13 the defense is saying that if you take the evidence
14 produced by the State, construe that evidence in a light
15 most favorable to the State, that they have not proven
16 that these crimes have been committed. I have granted
17 those motions for directed verdict. Let me explain why.

18 The basic reason is this. Effective July 1st of this
19 year the Georgia Legislature modified the statute
20 concerning where licensed gun permit carriers can carry
21 weapons. The unrebutted evidence is that Mr. Leising is a
22 licensed gun carry permit holder. And, in essence, what
23 they did is they decriminalized conduct that under the law
24 prior to July 1st had been illegal, in carrying weapons in
25 certain locations, et cetera, and they made very, very

1 limited restrictions as to where a license -- Basically a
2 license carry permit can carry a weapon basically anywhere
3 with certain limited restrictions, and even in those
4 places certain things have to happen before the person can
5 be arrested. That didn't occur in this case.

6 Now, while this conduct may or may not have been
7 illegal under the previous law, once -- and, of course,
8 this is alleged to have occurred back last October. But
9 even though the laws in one state, then under the law,
10 once the legislature, in effect, decriminalizes conduct
11 that had previously been criminalized, you cannot go back
12 and prosecute someone under the old law once the new law
13 would say that conduct that may have been prohibited under
14 the old law is now not prohibited under the new law. So
15 the new law is what binds me at this point and would have
16 bound you had the case gone to the jury.

17 Again, under the law, a person can carry, with a
18 permit, a firearm basically in any governmental building,
19 not a courthouse, but a governmental building, such as a
20 Department of Agriculture building, unless you're being
21 screened by law enforcement. And there was some evidence
22 that that may have been happening here, at least verbally
23 screening. There was no evidence that Mr. Leising himself
24 had been screened.

25 And, number two, even if it is screened and a weapon

1 is discovered, the person must be given the opportunity to
2 leave the premises with the weapon, and only if they
3 refuse to leave the premises with the weapon can they be
4 arrested. So that's not what happened here. In fact, as
5 you know from the evidence, he wasn't even found to have a
6 weapon until after he had left the premises.

7 So in this case I found that I had no choice but to
8 grant the directed verdict as to Counts 1, 2, and 3,
9 directed verdicts of not guilty, which means you no longer
10 have any obligations in this case.

11 I want to thank you very much for your patience. A
12 couple of things. Once you file out, I'll excuse you in
13 just a moment, you'll be free to discuss the case with
14 anyone you choose to discuss it with. However, if someone
15 approaches you to discuss it and you choose not to discuss
16 it, let them know that. I'm sure they'll respect your
17 wishes.

18 As you file out, Mr. Hawkins will collect your badges
19 and your notepads. He will escort you back down to the
20 jury assembly room on the first floor. The clerk there
21 will have some further instructions for you concerning the
22 need or the lack of need for your jury service for the
23 remainder of the week.

24 I'm not sure -- I've still got some cases reporting
25 in the morning. I'm not sure whether you're going to be

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C E R T I F I C A T E

STATE OF GEORGIA
COUNTY OF CLAYTON

I, Kim H. Raines, do hereby certify that the above and foregoing Transcript of Proceedings, Excerpted Transcript, was taken down by me on October 29, 2014, and that the same is a true, correct, and complete transcript of said proceedings.

I further certify that I am neither kin nor counsel to the parties herein, nor have any interest in the caused named herein.

This the _____ day of _____, 2014.

KIM H. RAINES, CCR-CVR
Certified Court Reporter
Certificate Number B-1631