

**IN THE CIRCUIT COURT OF THE SEVENTH CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA**

STATE OF FLORIDA
v.
OTHAL WALLACE

CASE NO: 2021-303347
DIVISION: CFDB

MOTION FOR NEW TRIAL

Defendant, Othal Wallace, by and through the undersigned attorney, files this Motion for New Trial under Fla R. Crim. P. 3.600, and shows the following:

1. Defendant was found guilty by jury verdict of the lesser offense of Manslaughter with a Firearm on September 16, 2023. This Motion is filed within 10 days of the jury verdict.

2. Defendant asserts that the following grounds for new trial exist:

a. The verdict is contrary to the law or the weight of the evidence. The Court in denying the Defendant's Motion for Judgment of Acquittal at the close of the State's case, and as renewed at the closed of the Defendant's case.

b. The Court erroneously refused to give a proper instruction requested by Defendant and Defendant's substantial rights were prejudiced thereby. The Defendant previously filed a request for a special jury instruction on the legal issues concerning detentions, arrests, and consensual encounters (Docket #290). The Defendant repeatedly asked for this instruction during the trial, for the final jury instructions, and when the jury posed written questions to the court concerning these very issues. The Court, on several occasions, the Defendant's requests.

c. The following trial objections were timely made, and overruled by the Court, and which singularly or cumulatively resulted in the Defendant not receiving a fair trial:

(1) Amanda Dickins's testimony concerning her alleged conversation with Jason Raynor, prior to the shooting incident, to the effect that he was going to look for a reported stolen car. Defense argued that Mr. Raynor's statements were inadmissible hearsay.

(2) The admission of Deputy Erlandson's body cam video as testimonial evidence in violation of *Crawford*¹ (Deputy Erlandson did not testify).

¹ *Crawford v. Washington*, 541 U.S. 36 (2004)

(3) The admission of evidence (Items #28, #29, and #30)), regarding the assault rifle and “banana clip” found in a treehouse where the Defendant was arrested up on his arrest.

(4) The Court’s denial that the Defendant be able to introduce evidence as to Jason Raynor’s character and reputation.

(5) The Defendant’s pre-trial motion in limine and trial objection to the admission of the Defendant’s Instagram posts (both prior to, and after, the shooting incident herein)

(6) The Defendant’s objection to, and related motion for mistrial of, the introduction of a collage pictures that contained a picture of a machete and the Defendant wearing a t-shirt with the New Black Panther Party symbol on it.

(7) During Roy Bedard’s testimony, the Defense objected to his testimony to the effect that the Defendant can be detained by law enforcement even if he (the Defendant) was not doing anything illegal, and he (the Defendant) could not walk away from such detention. The Defendant objected that is was a misrepresentation of the law, and had asked for a curative instruction (which was denied).

WHEREFORE, Defendant prays that the Court order a new trial in this matter, and for such other and further relief in connection therewith that is proper.

Certificate of Service

I certify that a copy of this document was electronically served via the Florida Courts E-Filing Portal to the State's Attorney on September 25, 2023.

Respectfully submitted,

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