

<u>ALLOWED IN CLOSING ARGUMENTS</u>	
Deductions from the evidence (Even if illogical)	<i>Davis v. State</i> , 285 Ga. 343, 347 (2009); <i>Harris v. State</i> , 296 Ga. App. 465, 469 (2009).
Credibility of Defendant's testimony (If Defendant testifies)	<i>Wells v. State</i> , 200 Ga. App. 104, 106 (1991).
Defendant has subpoena power too (Defendant's failure to bring evidence/witnesses to support his theory)	<p><i>Peek v. State</i>, 247 Ga. App. 364 (2000); <i>Kilgore v. State</i>, 300 Ga. 429, 432 (2017); <i>Biswas v. State</i>, 255 Ga. App. 339 (2002); <i>Ponder v. State</i>, 268 Ga. 544 (1997); <i>Morgan v. State</i>, 267 Ga. 203 (1996); <i>Duncan v. State</i>, 271 Ga. 16 (1999). State can comment on defendant's failure to produce certain witnesses when the defendant testifies to the existence of a witness with knowledge of material and relevant facts and that person does not testify at trial. In order to make such a comment the argument must be derived from evidence properly before the fact finder.</p> <p>The State cannot comment that the forensic witness was in the hall all week (because that was not in evidence) BUT the prosecutor CAN comment that the defendant also has subpoena power provided that the prosecutor does not imply that the defendant has any burden of proof. <i>Campbell v. State</i>, 329 Ga. App. 317 (2014). Same with a girlfriend who was in court but was not called to testify—improper to have her stand up in closing and point out she could have been called if she had relevant evidence. <i>Mowoe v. State</i>, 328 Ga. App. 536 (2014).</p>
Defendant has not rebutted State's evidence	<i>Kilgore v. State</i> , 300 Ga. 429, 432 (2017).
Defendant is dangerous (cannot allude to future conduct)	<i>Turner v. State</i> , 345 Ga. App. 427, 433 (2018); <i>Stroud v. State</i> , 272 Ga. 76, 77 (2000).
Urge jury to convict to send a message to the community	<i>Philmore v. State</i> , 263 Ga. 67, 69 (1993); <i>Poellnitz v. State</i> , 296 Ga. 134, 136 (2014); <i>Faust v. State</i> , 302 Ga. 211 (2017).

("Speak on behalf of the community")	
Use of terms "Murder," "Rape," and "Victim"	<i>Clark v. State</i> , 300 Ga. 899, 902 (2017) ("murder"); <i>Nguyen v. State</i> , 279 Ga. App. 129, 133 (2006) ("rape"); <i>McCray v. State</i> , 301 Ga. 241, 247-248 (2017) ("victim").
Defendant can argue witnesses received benefits in exchange for testimony (Potential prison time avoided)	<i>Palma v. State</i> , 280 Ga. 108 (2005).

NOT ALLOWED IN CLOSING ARGUMENTS

Facts not in evidence	<i>Morgan v. State</i> , 267 Ga. 203 (1996).
Pre-trial silence of Defendant (Pre-Arrest or after)	<i>Mallory v. State</i> , 261 Ga. 625 (1991); <i>State v. Orr</i> , 345 Ga. App. 74, 76 (2018), citing <i>Sanders v. State</i> , 290 Ga. 637, 640 (2012) and <i>Reynolds v. State</i> , 285 Ga. 70, 71 (2009); <i>Davis v. State</i> , 328 Ga. App. 796, 799 (2014), disapproved on other grounds <i>Martin v. McLaughlin</i> , 298 Ga. 44 (2015).
Defendant's failure to testify (Defendant did not deny or dispute the State's evidence)	U.S.C.A. Const. Amend. 5; O.C.G.A. § 24-5-506; <i>Eason v. State</i> , 283 Ga. App. 574 (2007) citing <i>Smith v. State</i> , 279 Ga. 48 (2005); <i>Smith v. State</i> , 170 Ga. App. 673, 674 (1984). Judge Jack Goger, <i>Daniel's Georgia Handbook on Criminal Evidence</i> , § 23:7 (West Pub. 2018 Ed.)
Golden Rule (put jurors in victim's shoes)	<i>Braithwaite v. State</i> , 275 Ga. 884 (2002); <i>McClain v. State</i> , 267 Ga. 378 (1996). <i>McKibbins v. State</i> , 293 Ga. 843, 849-850 (2013).
Defendant's future conduct	<i>Turner v. State</i> , 345 Ga. App. 427, 433 (2018); <i>Stroud v. State</i> , 272 Ga. 76, 77 (2000).
Prosecutor may not "testify" as victim	<i>McCray v. State</i> , 301 Ga. 241, 250-251 (2017). However, see <i>Watkins v. State</i> , 278 Ga. 414, 414-415 (2004) where prosecutor allowed to give a portion of his closing argument while seated in the witness chair.

Biblical quotes	<i>Carruthers v. State</i> , 272 Ga. 306, 310 (2000), overruled on other grounds <i>Vergara v. State</i> , 283 Ga. 175 (2008).
Personal Opinions	<i>McKibbins v. State</i> , 293 Ga. 843, 850 (2013).
Reference to other notorious cases	<i>Humphrey v. Lewis</i> , 291 Ga. 202, 216-217 (2012); <i>Carr v. State</i> , 267 Ga. 547, 555 (1997). Several older cases where comparing the defendant to the Viet Cong, the Nazi extermination of Jews, and other analogies have been upheld on appeal but the more modern rule seems to demand that any such analogy must be based upon facts in the case before the court. <i>Martin v. State</i> , 223 Ga. 649, 650 (1967); <i>Forehand v. State</i> , 235 Ga. 295 (1975). But see <i>Hudson v. State</i> , 273 Ga. 124, 127 (1998) where the prosecutor asked the jury to consider the cases involving Manson, Berkowitz, and Dahmer where those defendants were all found to be accountable for their actions even though they had claimed insanity. A deeply divided Supreme Court allowed that argument.
Punishment (or lenient sentence)	O.C.G.A. § 17-8-76. This rule does not apply to death penalty cases as §17-10-31(b) provides that the parties may argue and the court may charge the definitions of life without parole and life imprisonment.