

# Court of Appeals of the State of Georgia

ATLANTA, NOV 15 1995

*The Honorable Court of Appeals met pursuant to adjournment.*

*The following order was passed:*

**A95A1905. TRACY GRIFFIN v. THE STATE.**

This appeal was docketed on May 23, 1995. Defendant's notice of appeal was filed pro se and he was originally shown in this court's records to be unrepresented by counsel. He then asserted he had been appointed an attorney for appeal. Initial inquiry revealed no appointment. An extension of time to file briefs and enumerations was granted to August 11, 1995. Defendant then asserted that Mr. Roosevelt Warren, Georgia State Bar No. 738500, had been appointed to represent him on appeal. After being contacted by this court's clerk, Warren stated he did not believe he was defendant's counsel but that he would investigate. No communication was received from Warren and further inquiry revealed Warren had actually been appointed appellate counsel on June 5, 1995. On October 13, 1995, this court ordered that briefs and enumerations be filed by November 2, 1995. No brief or enumeration of errors was filed within the period of time set forth and no further extension of time was requested.

Accordingly, defendant's appeal is DISMISSED because defendant's attorney failed to file a brief and enumeration of errors. If defendant has decided he does not want to appeal, defendant need not do anything more. However, if defendant does still want to appeal, defendant may have the right to an OUT-OF-TIME APPEAL -- but DEFENDANT MUST TAKE ACTION to exercise that right by moving for an out-of-time appeal in the trial court. If defendant's motion for an out-of-time appeal is granted, defendant may retain counsel to pursue the appeal. If defendant wants an attorney and cannot pay for one, the trial court should appoint an attorney for defendant. If defendant's motion for an out-of-time appeal is denied, defendant may appeal that denial to this court

within thirty (30) days of the trial court's decision. Reese v. State, 216 Ga. App. 773 (456 SE2d 271) (1995).

Further, Warren has failed to comply with this court's order of October 2, 1995. It is hereby ordered that Mr. Roosevelt Warren, Georgia State Bar No. 738500, show cause, in writing by November 27, 1995, as to why he should not be found in contempt of this court for this failure, and why he should not be subjected to a fine of up to \$1,000.00 and have his license to practice before this court revoked pursuant to Court of Appeals Rules 7, 13, and 26 (a).

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* NOV 15 1995

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

Clerk.

