

# Court of Appeals of the State of Georgia

ATLANTA,

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

*The following order was passed:*

## **A95A0042. REMAND ON INEFFECTIVENESS OF COUNSEL.**

It appearing to this Court that appellant in this case has raised on appeal the issue of whether appellant was denied effective assistance of counsel during the trial of this case and that such issue was raised at the earliest practicable moment by appellant such that there has been no waiver of this issue for appellate consideration;

It further appearing that appellant has requested that this case be remanded to the trial court for the purpose of conducting an evidentiary hearing on appellant's ineffectiveness claim, see Johnson v. State, 259 Ga. 428 (3) (383 SE2d 115) (1989); Dawson v. State, 258 Ga. 380 (2) (369 SE2d 897) (1988);

It is hereby ordered, therefore, that this case be remanded to the trial court to allow appellant to file a motion for new trial raising the issue of the alleged ineffectiveness of trial counsel and also for an evidentiary hearing on this issue, said motion to be filed by appellant within thirty (30) days of the date of this order. It is further ordered that if the trial court finds that appellant was denied effective assistance of trial counsel, then

appellant shall be entitled to a new trial; however, if the trial court finds that appellant was not denied effective assistance of trial counsel, then appellant will be entitled to file a notice of appeal within thirty (30) days of the entry of any such adverse order.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

*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.*