

Court of Appeals of the State of Georgia

ATLANTA, June 24, 2010

The Court of Appeals hereby passes the following order:

A10A0872. DOWNER v. THE STATE.

Appellate counsel for Johnny D. Downer, Jr. has filed a motion for remand for the purpose of an evidentiary hearing on a claim of ineffective assistance of counsel. The motion shows that counsel also represented Downer at trial and has received a letter from Downer, raising a claim of his ineffectiveness.

Given that the claim of ineffectiveness of counsel is being raised for the first time on appeal, we REMAND this case to the trial court for an evidentiary hearing and appointment of new appellate counsel. *Bridges v. State*, 279 Ga. 351, 357 (11) (613 SE2d 621) (2005). Within 30 days of the trial court's final order disposing of the ineffectiveness claim, Downer may appeal from the trial court's ruling and from his original judgment of conviction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 24 2010

*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.*

Will I. Mart, Clerk.