



Court of Appeals of Georgia

July 2, 2014

TO: Mr. Allen Alphonso Adams, GDC534697, Hays State Prison - Underwood Road F-216,
Post Office Box 688, Trion, Georgia 30753

RE: **A14A0810. Allen Alphonzo Adams v. The State**

ADDRESS CHANGE

Your address has been updated on the Court's docket.

CASE STATUS - DISPOSED

Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

CASE STATUS - PENDING

Your case is still pending before the Court. Your case was docketed in the _____ term and a decision must be rendered by the Court by the end of the _____ term which ends on _____.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

RECEIVED IN OFFICE

2014 JUN 30 AM 8:10

CLERK/CLERK IN CHARGE
COURT OF APPEALS OF GA

TRION GA 30753
Underwood Road, P.O. Box 668
Room 216 # HAYS STATE PRISON
601 534697 - Building
Mr. Allen A. Adams

Allen Adams

YOUR ASSISTANCE IN THIS MATTER IS VERY WELL APPRECIATED. I AM IN CLOSING THIS SPECIFIC MATTER. ADDRESS PLACE IN YOUR COMPUTER ON FILE. PLEASE SIR.

AT THE JOY TERM OF COURT IN 2014 I RECD MY NEW A DECISION IN ALLEN A ADAMS VS THE STATE 11A0810 LETTER IS RECEIPT THAT THE FOURTH DIVISION WILL REACH IN LOCATION TO HAYS STATE PRISON UNDERWOOD ROAD LAST

THE FOURTH DIVISION ALSO GIVES THIS NOTICE FOR CHANGE REQUIRE BY LAW WHILE AWAITING FOR PENDING CASE AT ROOM 216, P.O. BOX 668, TRION GA 30753. BY GIVEN NOTICE AS

UNTIL HAYS STATE PRISON, UNDERWOOD ROAD, BUILDING SIR I WAS TRANSFERRED FROM DISTRICT PRISON NOTICE OF CHANGE IS LOCATED WITH NEW ADDRESS.

FOR A NEW EVIDENTIARY TRIAL HEREIN IS 1992-CR-138. THE RECEIPT UNTIL MY LETTER IS REFERABLE TO PENDING CASE. DEAR MR. CASTLE IN HIS COMMUNICATION FOR A

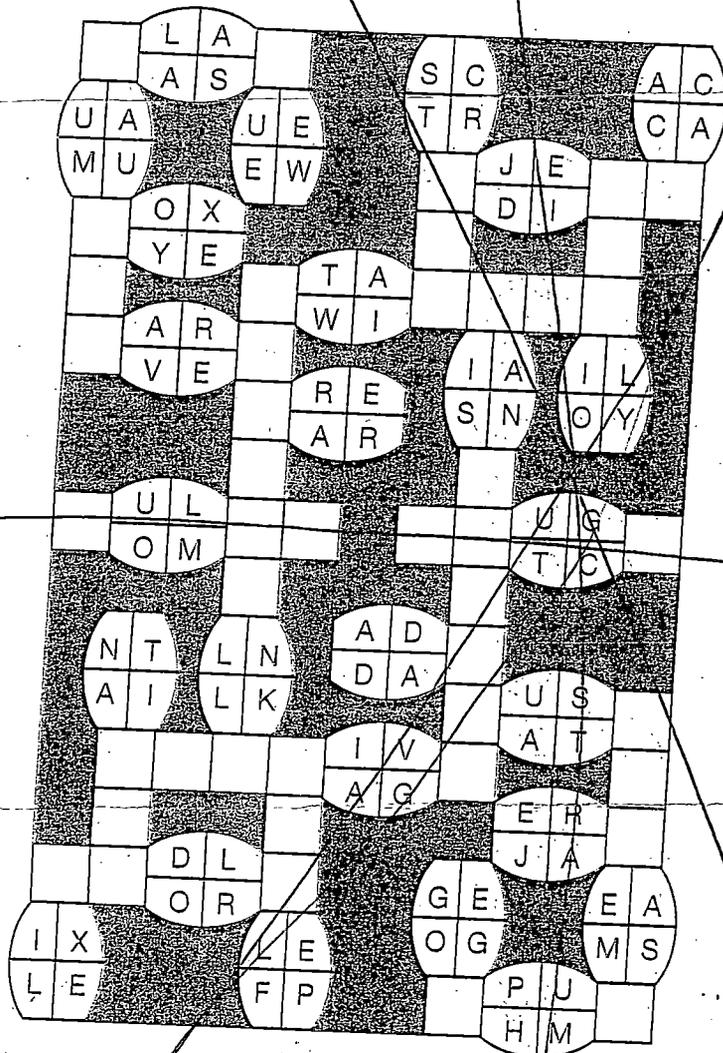
DATE
6-23-2014

ADMINISTRATOR CLERK
MR. STEPHEN CASTLE
47 TRINITY AVE. STE 501
ATLANTA GA 30331

~~RECEIVED IN OFFICE~~
~~2014 JUN 30 AM 8:10~~
~~CLERK/CLERK IN CHARGE~~
~~COURT OF APPEALS OF GA~~

★★ Split Decisions

In this clueless crossword puzzle, each answer consists of two words whose spellings are the same, except for the consecutive letters given. All answers are common words; no phrases or hyphenated or capitalized words are used. Some of the clues may have more than one solution, but there is only one word pair that will correctly link up with all the other word pairs.



TRANSDLETION

Delete one letter from the word HEURISTIC and rearrange the rest, to get the last name of a famous author.

RECEIVED IN OFFICE
2016 JUN 30 AM 8:10
CLERK/COUNTY CLERK
COUNT OF APPEALS/CORONA

TRIA 6A.30753,
Underwood Road, P.O. Box 668
Room 216 # HAYS STATE PRISON
601 534697 - F-2 Building
Mr. Allen R. Adams

Allen Adams

YOUR ASSISTANCE IN THIS MATTER IS VERY WELL APPRECIATED WHILE COURT IS CLOSING THIS SPECIFIC MATTER.

Address place in your computer on file. Please Sir
AT THE JULY TERM OF COURT IN 2014 I NEED MY NEW
A decision on Allen Adams vs. The State. I will reach
LETTER IN RECEIPT THAT THE FOURTH DIVISION WILL CALL REACH
Building Room 216 P.O. Box 668, TRIA 6A.30753 YOUR LAST
IN LOCATION. TO HAYS STATE PRISON - UNDERWOOD ROAD F-2
THE FOURTH DIVISION ALSO GIVES THIS NOTICE FOR CHANGE
REQUIRE BY LAW. WHILE AWAITING FOR PENDING CASE AT
Room 216, P.O. Box 668, TRIA 6A.30753, BY GIVEN NOTICE AS
UNTO HAYS STATE PRISON, UNDERWOOD ROAD, F-2 BUILDING
SIR I WAS TRANSFER FROM DISTRICT PRISON

NOTICE OF CHANGE IN LOCATION WITH NEW ADDRESS.
SIR I NEVER RECEIVED YOUR RESPONSE, BECAUSE I'M GIVEN
FOR A NEW EVIDENTIARY TRIAL HEREIN IS 1992-CR-139, TRIA
RECEIPT UNTO MY LETTER. IS REFERABLE TO PENDING CASE.
DEAR MR. CASTLE I'M IN COMMUNICATION FOR A

DATE
6-23-2014

ADMINISTRATOR CLERK
MR. STEPHEN CASTLE
47 TRINITY AVE. STE 501
ATLANTA GA 30331

~~RECEIVED~~
~~STEPHEN CASTLE~~
~~CLERK~~
~~47 TRINITY AVE. STE 501~~
~~ATLANTA GA 30331~~

IN THE COURT OF APPEALS FOR GEORGIA

STATE RECEIVED IN OFFICE

2014 JUN 31 AM 8:10

APPEAL COURT DOCKET

Number A14D0373

THE STATE
vs. APPELLEE

MR. ALLEN ALPHONZO ADAMS

APPELLANTE.

SPECIAL DEMURRER

MR. ALLEN ALPHONZO ADAMS IS PRECEDING AS A NUNC PRO TUNC WITHIN THIS JUNE COURT TERM. FOR THE YEAR OF 2014. A HEARING HAS NOT YET BEEN SCHEDULED FOR THIS SPECIAL DEMURRER FILE IN CASE A14D0373. WHEN A CHANGE IN LAW SHOW A DIFFERENT PROCEDURE SHOULD HAVE BEEN IMPOSED. TO BE RESOLVED IN HIS OUT OF TIME MOTION FOR NEW TRIAL. EVIDENTIARY HEARINGS, WHEN APPELLEE COUNCIL REMAINS INEFFECTIVE AS BEING DEFICIENT AFTER TRIAL COURT RECORDS, AND COURT OF APPEAL RECORDS, INDICATE MR. ADAMS FILE A SPECIAL DEMURRER AT THE TRIAL COURT LEVEL. PERTAINS HIS OUT OF TIME MOTION FOR NEW TRIAL EVIDENTIARY HEARINGS, AND RAISE THE SAME ISSUE ON APPEAL. IN 2014, CASE A14D0373 BRIEF FILE NOTE. PAGE (11) WITH [EX. 15] PROCEDURE. WHEN TRIAL OFFICER IMPROPERLY WILL HIM A LEGAL RIGHT TO RECEIVE A EVIDENTIARY HEARING. AFTER REQUESTED IT WILL BE SUBJECT FOR A DEMURRER. IN CASE A14D0373, ALLEN ADAMS VS. THE STATE 2014. BECAUSE A CHANGE IN LAW PRESENT A DIFFERENT PROCEDURE SUPPOSE TO OCCUR IN THIS PRESIDENT OFFICER. OWN ENFORCED RULES AND LAWS. INDICATE THIS COURT APPEAL OFFICER IMPROPER WILL MR. ADAMS A LEGAL RIGHT FOR LEAVE TO RESOLVE THOSE ISSUE RAISE ON APPEAL, WHEN THAT OFFICER STATED JURISDICTION. AS INDICATE AS DOC. A14D0373. WHICH WILL MR. ADAMS A CONSIDERATION ON THE MERIT OF THIS

CRIMINAL APPEAL. AFTER THIS PRESIDENT OFFICER OWN ENACTED LAWS. HAS IMPOSE THEIR SPECIAL CONCURRENCE OPINION. FOR AN CASES ON APPEAL TO BE RESOLVE IN THAT OFFICER RULE, IS NOT LACKING JURISDICTION TO CORRECT THE MERIT. THAT WILL BE A DEMURRER, WHEN THE APPEAL OFFICER REFUSE TO DO SO, UNDER HIS OWN ENACTED LAWS.

PURSUANT TO CITE. ROWLAND LAW 264 GA AT 878. (1). 452. S.E. 2d. 756. 1995. ADAPTING HIS OWN ENACTED LAW IN O.C.G. A. 5-6-38. CONJUNCTIVE LEE LAW 203 GA APP AT 489. (1) 417. S.E. 2d. 426. 1992. THOSE PRINCIPLE LAWS, WILL BE SUBJECT FOR A DEMURRER TO BE UPHOLD IN CASE A14D0373. WHEN THE OFFICER, WAS NOT LACKING JURISDICTION TO ENFORCE HIS OWN ENACTED RULES AND LAWS TO DO SO IN THIS CASE PROCEDURE. THAT WILL BE A DEMURRER FOR BE AFFIRMED, IN THAT PORTION OF APPEAL. WHEN HE, OR SHE REFUSE TO REMANDED THIS PORTION OF CLAIM BACK. PURSUANT TO LEE LAW AT 488 (1). A PROCEDURE IN ROWLAND LAW SPECIAL CONCURRENCE OPINION. MADE AT 878. WHEN RECORDS INDICATE. MR. ADAMS IS IMPROPERLY NULL A RIGHT TO RECEIVE A EVIDENTIARY HEARING WHEN TRIAL COURT OFFICER ARE NOT LACKING JURISDICTION TO RESOLVE THOSE ISSUE UNDER THEIR OWN ENACTED SCREEN IN LAW. SEEKING IN O.C.G. A. 5-6-35(1). THAT WILL ALSO BE SUBJECT FOR A DEMURRER CONSIST OF IMPROPERLY NULL MR. ADAMS A LEGAL RIGHT TO BE ACQUITTAL, AFTER A TIMELY EVIDENTIARY HEARING WAS NOT HELD, WILL BE FOR A DEMURRER PROCEDURE ON A EVIDENTIARY HEARING AS DEMANDING A VERDICT OF ACQUITTAL, WHEN TRIAL COURT CHIEF REBUTTAL INDICATE, THAT OFFICER REFUSE TO SCHEDULE A EVIDENTIARY HEARING. AFTER A TIMELY REQUEST WAS MADE. PURSUANT TO 2014. DOC. A14D0373. THAT WILL BE A DEMURRER WHEN A CHANGE IN LAW, IS DIFFERENT FOR THOSE PROCEDURE WAS NOT TAKEN INTO A EVIDENTIARY HEARING. MR. ADAMS ARE ENTITLED TO BE ACQUITTAL UNDER THIS PRESIDENT OFFICER OWN LAWS AND ENACTED RULES PURSUANT TO RULE 31 (A) - 1. ADAPTING CODE ANN § 27-1802 GA. L. 1971. PP. 460, 461. COMPARE. BRYAN LAW 137 GA. APP. 169. (2) 223. S.E. 2d. 219.

because it will be a demurrer, when

defendant plea alone without a evidence hearing

support a conviction of falsify

imprisonment. After defendant request and file

a timely out of time motion for new trial

evidentiary hearing. Where trial officer null

defendant a legal right pursue his neutral evidentiary

hearing. when [this officer] was not lacking jurisdiction

to issue a order under his own enacted law in

D.C.A. 5-5-41 (C)-9. CONJUNCTIVE STATE VS. CLARK

873. 6A. APP. 111. 615. S.E. 2D. 193. 2005. THIS PRINCIPLE

LAW HAS SAID. WHEN A TRIAL COURT OFFICER REFUSE OR

IGNORE A MANDATE PROCEDURE IS NOT CARRY OUT

IN SECTION O.C.G.A. 5-5-41 (C)-9. THE DEFENDANT

SHALL BE RETURN BACK TO THE TRIAL COURT INVOLVED

A IMPOSITION TO BE TAKEN IN A UN CERTIFIED LABORAT

ORY TESTING. WHICH WILL INVOLVE A DEMURRER PROC

EDURE TO BE UPHOLD IN LAWS PURSUANT TO

THIS ENACTED LAW IN O.C.G.A. 5-5-41 (C) (3) - (E)

FOR A DESCRIPTION OF THIS CASE EVIDENCE TO BE RESUB

IN TESTING WITH ITS PRESENT LOCATION, ITS ORIGIN

DATES, AND TIME MEAN FOR THE ORIGINAL COLLECTION

AS REQUIRE BY LAW PURSUANT TO ROBINSON LAW 256.

6A. 564. (350 S.E. 2D. 464. ADAPTING O.C.G.A. 16-13-30 (H),

AND (6). THAT WAS NOT UPHOLD IN THIS CASE. FOR A DESCRIP

TION IN EVIDENCE. WHICH WILL BE A DEMURRER IN

DOC. A14 DO 373. TO BE DISMISS WITHOUT A EVIDENTIARY HE

ARING. IN THOSE PROCEDURES, ONCE THIS PRESIDENT OFFICER

OWN LAWS HAS MADE A DISTRICT AS BEEN UNCONSTITUTED, FOR

A OFFICER DID NOT CARRY OUT A HEARING IN O.C.G.A.

5-5-41 (C)-9. MR. ADAMS WILL BE ENTITLED TO KEEP

ON CHALLENGE THOSE PROCEDURE ONCE A DISTRICT LAWS

ABOVE HAS SAID. IT WAS UNCONSTITUTED. AND THIS OFFICER

FAIL TO GRANT HIM LEAVE TO PROCEED BACK TO THE TRIAL

COURT, AS TREATED THIS CASE AS A TERROR ACT.

IN VIOLATE A NON-VIOLENT CRIME SCREEN.

To be Resolved

Involved a Guilty Plea. For New Trial Evidentiary Testing, when a distinct in law has declare Mr. Adams a legal right to receive a new trial, from his plea, pursuant to BENNETT LAW 268, GA. 849, 494, S.E. 2d. 330, 1998, when a defendant are entitle to be place back in the posture of standing as not guilty, because the state's conduct unquestionably aided in causing this court to grant a new trial, when the state is barred from obtaining relief under the well established rule, that one cannot complain of a judgment, order, or ruling that their own procedure has conduct as aided causing, nor can a opposite party complain of those question on appeal for a judgment, that is been invoking by them, pursuant to BENNETT LAW 268 GA. 849, AT FN 6th ADAPTING GEORGIA DEPT. OF HUMAN RESOURCE LAW 268, GA. 316, 320, (2), 486, S.E. 2d. 851, 1997. BROWN LAW 266, GA. 779, 782, 470, S.E. 2d. 682, 1996. This change in law shall upheld a demurrer for a void order issue in CASE A14D0373, for a new trial, after a change in law has made a distinct to do so, under BENNETT LAW, as defendant seeking a new trial, when the trial court is not lacking jurisdiction to do so, under O.C.G.A 17-9-4, which improper by null Mr. Adams a legal right after he properly rendered his petition to do so, pursuant to CABELL LAW 221, GA. APP. 192, 471, S.E. 2d. 222, 1996. This principle law has said to return defendant back for a imposition to be taken, in CASE 1992-CR-13818, follow the above law requirement to be enforced by this president officer making new laws that will be use in his public official duties, when carry out justice, to serve in his official office. The only thing Mr. Adams is trying to do, is receive a proper sentence, and resolve this claim, as been re-sentence in that illegal condition

IN A PLEA MADE [] AS BEEN VOID UNDER ENACTED LAW FC CITE O.C.G.A 17-10-2

CONJUNCTIVE WEATHERBED LAW 211. GA. AT 738. 524. S.E.

AD. 452. 1999. TRIAL COURT CHIEF REBUTTAL INDICATE, TRIAL OFFICER WAS LACKING JURISDICTION TO ACCEPT HIS GUILTY PLEA WITHOUT A INDICTMENT, FOR TWO 2nd LIFE SENTENCE AT 738 THAT IS MADE FROM THIS CASE ACCUSATION WITHOUT EVIDENCE. WHEN THOSE PROCEDURE EXISTENCE. AS WEATHERBED LAW HIS SAID. WEATHERBED SENTENCE WAS SET ASIDE AS BEEN ACQUITTAL, WHEN A OFFICER LACKING JURISDICTION TO ACCEPT A GUILTY PLEA FOR

2nd LIFE OR DEATH SENTENCE WITHOUT A INDICTMENT, TO SUPPORT THE STATES UNJUSTIFY CONDUCT IN A FINALITY OF JUDGMENT. MR. ADAMS CONTESTED HE IS ENTITLED TO A NEW TRIAL AS BEEN RESENTENCE IN THAT VOID PLEA CONDITION OF

MULLINS LAW 134. GA. APP. 243. 214. S.E. AD. 1. 1975. HATZER LAW 265. GA. AT 64 646. S.E. AD. 64 2007. CLIVE LAW 273. GA. APP. 672. 675. 615 S.E. AD. 800. 2009. WHEN IT BEEN VACATED AND REMANDED IN THAT PORTION OF ILLEGAL. SENTENCING CONDITION FOR RESENTENCING PURSUANT TO DAVIS LAW 172. GA APP. 787. 790. 791. 324. S.E. AD. 767. 1984. ELLIS LAW 221. GA APP. 103. 104. (1). 467 S.E. AD. 495. 1996. SEEKING A NEW TRIAL TO DO SO

AFTER A PLEA HAS BEEN ENTRY PURSUANT TO ENACTED LAW IN PENNETT. 268. GA 849. AT EN 6. 494. S.E. AD 330. 1998. WILL UPHOLD A DEMURRER IN DOC. A14 DO 373. 2014. AFTER A CHANGE IN LAW SHOWS A DIFFERENT DISTINCT IN LAW FOR A NEW TRIAL BEEN ORDER INVOKING A PLEA PROCEDURE WHEN THIS DEFENDANT ONLY TRYING TO BE RESENTENCED UNDER O.C.G.A. 16-13-30 (6). WHEN IT NOT A DISCRETION TO DO SO PURSUANT TO BROADSHAW LAW 132. GA. APP. 363 (4) 208. S.E. AD. 173. WADE. LAW. 231. GA 131. 133. (11). 200 S.E. AD. 271. THAT WILL BE A DEMURRER. WHEN A OFFICER REFUSE TO RETURN MR. ADAMS BACK TO TRIAL COURT FOR A IMPOSITION IN A PROPER SENTENCING AS A NEW TRIAL. IN DOC. A14 DO 373. 2014 PROCEDURE.

PLAICE OF SERVICE. THIS 16TH DAY OF JUNE 2014.

MR. ALLEN A. ADAMS 6, D.C. 334692 A-WING ROOM 105 85 MV. 6, D.C.P. SPECIAL MANAGEMENT UNIT. P.O. BOX 3577 JACKSON GA 30233. ALLEN A. ADAMS (SIGNATURE).

CERTIFICATE OF SERVICE I, MR. ALLEN A. ADAMS HAS DECLARE AND SWEAR ON THIS 16TH DAY OF JUNE 2014, HE HAS AFFIXED THIS SPECIAL DEMURRER BEFORE DEPOSITING IN VIS. MAIL BOX WITH SUFFICIENT POSTAGE ATTACHED TO ENVELOPE ADDRESSED FOR DELIVER TO LISTED PERSON(S) COURT OF APPEALS ADMINISTRATOR OFFICER MR. STEPHEN E. COSTEN AT 47 TRINITY AVE, SUITE 501, SW ATLANTA GA 30334. CLERK OFFICE AT 1006 JEFFERSON AVE STE 236 EASTON GA 31024. DISTRICT ATTORNEY OFFICE. FREDRIC B. D. BRIGHT 1005 JEFFERSON AVE STE 102 EASTON GA 31024. AS REQUIRED BY LAW TO SERVE ALL PLEAS INVOLVED A COPY OF PETITION.

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**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

July 2, 2014

To: Mr. Angelo Bernard Banks, GDC402710 D-7-AB, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Docket Number: A14D0078 **Style:** Angelo Bernard Banks v. Brian Owens, Commissioner, et al.

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. **Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).**

Other:

For additional information, please go to the Court's website at: www.gaappeals.us

ORIGINAL

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14 JUN 26 PM 3 23
COURT OF APPEALS OF GEORGIA
ANGELO BERNARD BANKS TRAFFIC

COURT OF APPEALS OF GEORGIA
STATE OF GEORGIA

No: _____ SUPC. CIV. ACTION NO. 2013CV231225

ANGELO BERNARD BANKS, APPLICANT / APPELLANT,

VERSUS

STATE BOARD OF PARDONS AND PAROLES, RESPONDENTS / APPELLEES,

PETITION TO REDPEN TIME TO FILE NOTICE OF APPEAL

THE JURISDICTION OF THIS COURT OF APPEALS, THAN THE SUPREME COURT
IS CONFERRED BY GEORGIA CONSTITUTION, ART. I, §V, PAR. III.

PLEASE SERVE

#402710 D-7-AB
WHEELER CORRECTIONAL FACILITY
P.O. BOX 466
ALAMO, GEORGIA 30411

MR. ANGELO BERNARD BANKS, OFFENDER
PRO SE

PETITION TO REOPEN TIME TO FILE NOTICE OF APPEAL

TO:

COURT OF APPEALS OF GEORGIA

SUITE 501

47 TRINITY AVENUE, SW,

ATLANTA, GEORGIA, 30334

ANGELO BERNARD BANKS, APPLICANT, APPLIES TO THIS COURT OF APPEALS AS FOLLOWS:

- 1. TO ISSUE AN IMMEDIATE ORDER GRANTING THE APPLICANT AN EXTENSION OF TIME TO FILE NOTICE OF APPEAL FROM THE ORDER OF THIS COURT GRANTING THE APPLICANT'S APPLICATION FOR DISCRETIONARY APPEAL FROM THE PETITION FOR DECLARATORY JUDGEMENT ORDER OF THE SUPERIOR COURT OF FULTON COUNTY, INITIALLY ASSIGNED TO HONORABLE CONSTANCE C. RUSSELL, JUDGE, BUT THEN IMPROPERLY ASSIGNED TO JUDGE THOMAS R. CAMPBELL, WHOM PRESIDED IN THE CASE STYLED ANGELO BERNARD BANKS, APPLICANT, VERSUS STATE BOARD OF PARDONS AND PAROLES, ET. AL, RESPONDENTS CIV. ACTION NO. 2013CV231225. THIS ORDER HAVING HELD THAT THE PETITION FOR DECLARATORY JUDGEMENT IS DENIED.
- 2. APPLICANT SHOWS THAT THE JURISDICTION IS PROPERLY IN THIS COURT OF COURTS BECAUSE OCGA §42-12-8, REQUIRES OFFENDERS TO APPLY FOR AN APPEAL PURSUANT TO OCGA §5-6-35.
- 3. THIS PETITION TO REOPEN TIME TO FILE NOTICE OF APPEAL IS FILED MORE THAN 30 DAYS FROM THE ENTRY OF THE ORDER GRANTING 10 DAYS TO FILE, THE DATE OF NOVEMBER 12, 2013.
- 4. APPLICANT SUBMITS THAT AN ORDER TO REOPEN THE TIME TO FILE A NOTICE OF APPEAL SHOULD BE GRANTED BECAUSE:
 1. APPLICANT'S RIGHTS TO APPELLATE REVIEW HAS BEEN ABROGATED BY THE SUPERIOR COURT, ITS CLERKS, AND CERTAIN PRISON OFFICIALS TO EFFECTIVELY CONCEAL AND TO FURTHER THEIR DEPRIVATIONS OF FEDERAL AND STATE CONSTITUTIONAL RIGHTS, IN THE FOLLOWING MANNERS:
 - (A) PRISON MAIL OFFICER, I.E. CO. SALTER, IMPROPERLY INTERFERED WITH THE FILING OF THE NOTICE OF APPEAL. THE AMENDMENT DATED 01/03/14, REVEALS THAT THE LEGAL LETTER WAS POSTED, BUT THE CASE SUMMARY REVEALS THAT FROM 11/19/13 TO 01/03/14 NO OTHER ACTION WAS FILED.

(B) PERSON OFFICIAL, I.E. (D NEAL, CONDUCTED AN RAINFOILING OF PERSONAL AND LEGAL PROPERTY CONTAINED IN THE CELL LOCKER BOX DURING CHOW CALL, THE LEGAL DOCUMENTS WERE LEFT IN SHAMBLES AND LEGAL DOCUMENTS RELATED TO THE CASE WERE NOT CONTAINED IN THE PAPERS LEFT. APPLICANT WAS HINDERED FROM ACCESS TO THE COURT BETWEEN 11/19/13 AND 01/03/14.

(C) JUDGE THOMAS R. CAMPBELL'S REFUSAL TO ENTER JUDGMENT ON EXCESSIVELY LONG PENDING MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL DUE TO HIS PECUNIARY INTEREST IN THE CASE AND ERRONEOUS ABUSE OF DISCRETION TO FURTHER THE MISFEASANCE ACTIONS OF THE RESPONDENTS.

2. APPLICANT HAS ON 02/07/14 FILED HIS MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL, AND ON 01/14/14 FILED HIS DEMAND FOR ENTRY OF JUDGMENT BEFORE JUDGE THOMAS R. CAMPBELL JR., WHOM BY JUNE 21, 2011, REFUSED TO COMPLY WITH DC GA 9-6-21, WHEREIN, THREE OR MORE TERMS OF THE SUPERIOR COURT OF FULTON COUNTY HAS EXPIRED.

3. THROUGH NO FAULT, OR RESPONSIBILITY, OR LACK OF DUE DILIGENCE OF THE APPLICANT, THE RESPONDENTS CREATED OR CAUSED AN UNORDINARY DELAY IN FILING A NOTICE OF APPEAL, WHEN PRISON OFFICIAL CONDUCTED A CELL SEARCH THAT CAUSED HIS LEGAL DOCUMENTS TO HAVE VANISHED, OR WITHHOLDING PROPERLY POSTED NOTICE OF APPEAL, AND OR THAT COURT CLERKS REFUSED TO FILE THE NOTICE OF APPEAL OR FILED IT UNDER THE WRONG CASE INVOLVING THE APPLICANT.

APPLICANT HAS ATTACHED, AS EXHIBITS, THE ORDER OF THIS COURT OF APPEALS, AS WELL AS THE FOLLOWING DOCUMENTS LISTED BELOW:

- A. CASE SUMMARY;
- B. ORIGINAL COPY OF NOTICE OF APPEAL, (FOR SUPERIOR COURT);
- C. DUPLICATE COPY OF NOTICE OF APPEAL, (FOR THIS COURT).

RESPECTFULLY SUBMITTED,
ISABELLA B. BEAUS
APPLICANT, OFFENDER PRO SE

CERTIFICATE OF SERVICE

I, Angela Brandon Banks, hereby certify that I have caused to be served a copy of the foregoing Petition to Reopen Time to File Notice of Appeal upon the opposing counsel by sending a true copy of the same by United States mail in a proper envelope with adequate postage, properly addressed to:

SAMUEL S. DAVENIS
60 KARIJA BRADWIN DOLBY
40 CAPITAL SQUARE, SE,
DEPT. OF LAW
ATLANTA, GEORGIA. 30334

This 23rd day of June, 2014.

Angela B. Banks
Plaintiff, Pro Se

COURT OF APPEALS OF GEORGIA

ANGELO BERNARD BANKS.

Appellant

COURT OF APPEALS
CASE NUMBER _____

-VS-
STATE Bd. OF PAROLE & PARDONS,
GEORGIA DEPT. OF CORRECTIONS,
Appellee
ET AL.,

PETITION TO REOPEN TIME TO FILE NOTICE OF APPEAL

PAUPER'S AFFIDAVIT

Comes now ANGELO BERNARD BANKS, first being duly sworn, deposes and states I am financially unable to pay the \$80.00 filing fee required for filing costs in the Court of Appeals of Georgia, and I request I be permitted to file (appellant's brief) (application) without having to pay filing fees.

This the 21st day of MAY, 2009

NAME

Angelo B. Banks

Sign name and complete Address
Telephone Number

Sworn to and subscribed before me
this 21st day of May, 2009.



Kimberly R. Simpson
Notary Public

RECEIVED IN OFFICE
2014 JUN 26 PM 3:28
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SEAL

Court of Appeals of the State of Georgia

ATLANTA, November 12, 2013

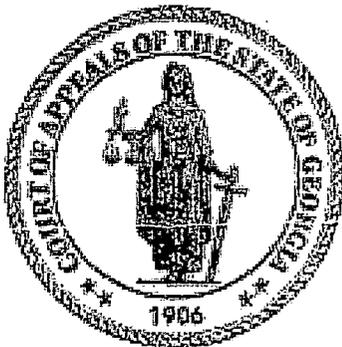
The Court of Appeals hereby passes the following order

A14D0078. ANGELO BERNARD BANKS v. BRIAN OWENS, COMMISSIONER .

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC NUMBERS:

2013CV231225



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, November 12, 2013.

*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.*

Stephen E. Costlow, Clerk.

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 2, 2014

To: Mr. Kevin Broyard, GDC1202844, Wheeler Correctional Facility, Post office Box 466, Alamo, Georgia 30411

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

THE SUPERIOR COURT OF HENRY COUNTY

STATE OF GEORGIA

KEVIN BROYARD

APPELLANT,

Case No. 2008-SU-CR-890-N

v.

STATE OF GEORGIA

APPELLEE,

RECEIVED IN OFFICE
2014 JUL -2 PM 2:20
CLERK/COUNTY ADMINISTRATOR
COURT OF APPEALS OF GA.

NOTICE OF APPEAL

Notice is given that Kevin Broyard in the above matter hereby appeals to the Court of Appeals of Georgia from the judgement of the trial court entered on the 25th day of June, 2014.

The clerk will omit nothing from the record on appeal.

A transcript of evidence and proceedings will be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court of Georgia, has jurisdiction of this appeal because the issue(s) involved and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

I hereby certify that this day a true and correct copy of this Notice of Appeal has been served upon the parties listed below by depositing a copy of the same in the United States Mail in a properly addressed envelope with adequate postage thereon to insure that it reaches its destination, properly addressed upon:

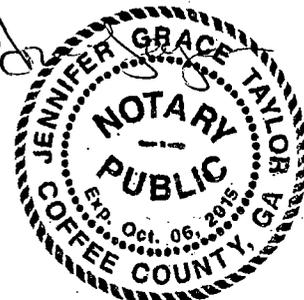
<u>DISTRICT ATTORNEY</u>	<u>HENRY COUNTY SUPERIOR</u>	<u>GEORGIA COURT OF APPEALS</u>
<u>2nd Floor West Tower</u>	<u>COURT CLERK</u>	<u>OFFICE OF THE CLERK</u>
<u>McDonough, GA 30253</u>	<u>One Courthouse Square</u>	<u>47 Trinity Ave. Ste. 501</u>
	<u>McDonough, Ga. 30253</u>	<u>Atlanta, Ga. 30334</u>

This 19 day of June, 2014.

Kevin Broyard
P.O. Box 466
Alamo, Ga. 30411

Kevin Broyard

Jennifer Taylor



The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 21, 2014

Mr. Jeffrey Alan Brumit
GDC432615 8-QQ
Coffee Correctional Facility
Post Office Box 650
Nicholls, Georgia 31554

Dear Mr. Brumit:

In response to your correspondence received in this office, we do not have a case styled in your name pending in this Court. I am returning your Motion of Contempt to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

In the Superior Court of Cobb County
State of Georgia

Jeffrey Alan Brumit vs. state of Georgia	case NO. 05-9-3040-53
--	-----------------------

Motion of Contempt

Comes now Jeffrey Alan Brumit in the above styled case, and files this Motion of Contempt because clerk ~~Rebecca~~ ~~Rebecca~~ Keaton has failed to perform her duties as the

Superior Court Clerk of Cobb County.

O.C.G.A. 5-6-43(a) states, within five days after the date of Filing of the Transcript of Evidence and proceedings by the Appellant or Appellee as the case maybe it shall be the duty of the Clerk of the Trial court to prepare a complete copy of the entire Record of the case omitting only those things designated for inclusion by the appellee together with a copy of the Notice of Appeal and copy of any Notice of Cross Appeal with date of filing thereon and transmit the same together with the transcript of evidence and proceedings to the Appellate Court together with his certificate as to the correctness of the record.

Where no transcript of evidence and proceedings is to be sent up the clerk shall prepare and transmit the record

within (30) days after the filing of the notice of Appeal.

Statement of Facts

-1-

On June 13, 2013, Appellant moved the trial court for leave to file an out-of-time appeal based upon the following:
a) The arrest warrants failed to state every essential element of the offense charged.
b.) The trial court lacked subject matter jurisdiction, in that the indictment fails to identify, and the State failed to prove, the essential element of venue.

-2-

On November 19, 2013, Honorable Judge Robert D. Leonard II denied the motion.

-3-

On January 27, 2014 the defendant filed a notice of Appeal for case number 05-9-3040-53 with the clerk of Cobb County Superior Court, Rebecca Keeton.

-4-

On July 7, 2014, defendant's mother, Fran Retherick tried to contact Katie Lanham, appeals clerk for the clerk of Superior Court Cobb County, to no avail in that they did not respond to phone calls. At that time defendant's mother contacted the Georgia Court of Appeals to confirm the court's reception of the record of the case with transcripts. The court of Appeals advised defendant's mother that no record of the

-2-

case had been submitted by the clerk of Superior Court,
Cobb County, Georgia,

Argument

Cobb County Superior Court Clerk, Rebecca Keaton has breached her duty pursuant to O.C.G.A. 5-6-43(a). She did not transmit the records with transcripts of case no. 05-9-3040-53 for defendant Jeffrey Alan Brumit within the time prescribed by statute.

O.C.G.A. 15-1-4(a)(3) Gives the power of several courts to issue attachments and inflicts summary punishment for Contempt of Court shall extend only to cases of disobedience or resistance by any officer of the court.

Conclusion

Wherefore, this defendant has already suffered a severe manifest of injustice due to a lack of subject matter jurisdiction by the essential element of venue not being established. The defendant prays that this court will order the clerk to perform the duties she was sworn to uphold.

This 11th day of July, 2014,
signed Jeffrey Alan Brumit

Jeffrey Alan Brumit
GDC # 432615
Coffee Correctional Facility
P.O. Box 650
Nicholls, GA 31554

Certificate of Service

This is to certify that I have this day served a true and correct copy of the Motion of Contempt upon the party(s) listed below by depositing a copy of the same in the United States Mail properly addressed with appropriate postage affixed thereon to ensure delivery and addressed as follows:

(1) Jaret Usher
Assistant District Attorney
70 Haynes Street
3rd Floor
Marietta, Georgia 30090

(2) Court of Appeals
47 Trinity Ave. SW
Suite 501
Atlanta, Georgia 30334

Executed this 11th day of July, 2014



Jeffrey Alan Brumit
GDC #432615 Dorm 8-QQ
Coffee Correctional Facility
P.O. Box 650
Milledgeville, Georgia 31554

Jeffrey Alan Brumit
Appellant, Pro Se

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

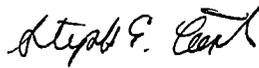
July 16, 2014

Mr. Brian Barbarossa
GDC1000892905
Dodge State Prison
Post Office Box 216
Chester, Georgia 31012

Dear Mr. Barbarossa:

The Court of Appeals of Georgia cannot appoint counsel for you. You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing. I am returning your "Motion to Appoint Counsel for Indigent Person on Appeal."

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosure

In the Court of Appeals
State of Georgia

State of Georgia

V/S

Brian E Barberossa

Case NO. 10B0215

Motion to appoint counsel for indigent person on appeal

Comes Now the defendant in the above-styled action and respectfully moves the Court for appointment of counsel in the prosecution of his appeal upon the following grounds to-wit:

Defendant has requested his designation as an indigent and has filed an Affidavit in support thereof.

Defendant is unable to afford an attorney nor the appeal costs pursuant thereto because of his poverty.

Caldwell & Irvin Attorney at law has aided and assisted the defendant and is acquainted with this case.

In light of the complex and protracted nature of this case and the above attorney's knowledge of said case, in the interest of Justice, it is requested that he be appointed to prosecute said Appeal. Wherefore, said attorney will seek said appeal in good faith and upon reasonable grounds as he verily believes and he requests that he be appointed to represent the defendant in said appeal.

Past Attorney

Mark M. Irvin # 384750

Caldwell and Irvin

20 1/2 S. Center Street

Po. Box 632

Thomasville, Georgia 30286

Phone NO. (706) 646-5100

Fax NO. (706) 646-5101

page 2 of 2

Brian Barbarossa Pro Se.

G.D.C. # 100892905

Dodge State Prison

Po. Box 276

Chester, Georgia 31012

CERTIFICATE OF SERVICE

This is to certify that I have this day served this opposing party (ies) to this action with a true and correct copy of the within and foregoing

Motion to appoint counsel for indigent person on appeal

By placing a copy of the same in the United States Mail, with adequate postage there on to ensure prompt delivery, and addressing it to:

THIS 8 DAY OF July, 2014.

PRINT Brian Barbarossa PRO-SE

SIGN 

WITNESS Clarence M. Lynch Jr.

DATE July 8, 2014

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 15, 2014

Mr. Vinay Bose
3001 Wembley Ridge
Atlanta, Georgia 30340

Dear Mr. Bose:

I am in receipt of your Appellant's Brief which was received in this office prematurely. You should re-file the Appellant's Brief when the Notice of Appeal has been docketed in this Court.

Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.

I am returning the Appellant's Brief and Reply Brief to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

SCANNED

6.5.14

FILED IN OFFICE

JUN 03 2014

COURT CLERK
CLERK COURT OF APPEALS OF GA

IN THE COURT OF APPEALS OF GEORGIA

No. A14A1689

VINAY BOSE, PRO SE

Cross-Appellant,

v.

R.C. ACRES, INC.

Cross-Appellee.

RECEIVED IN OFFICE
JUN JUN -5 PM 1:37
COURT OF APPEALS OF GA

BRIEF OF CROSS-APPELLANT
VINAY BOSE, PRO SE

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
Telephone: 770-480-1111

PART ONE: VINAY BOSE JOINING CROSS-APPELLANT MOMMIES PROPERTIES,

LLC'S BRIEF

COMES NOW, Vinay Bose who would like to join the Brief of Cross-Appellant Mommies Properties, LLC, for this Conditional Cross Appeal. All parts of the Brief of Cross-Appellant Mommies Properties, LLC's Brief of Cross-Appellant are hereby incorporated by reference as if rewritten in their entirety.

Respectfully submitted, this 3rd day of June, 2014.



VINAY BOSE, Pro Se

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
770-480-1111

CERTIFICATE OF SERVICE

This is to certify that I have this date served all other parties with the within and foregoing by placing a copy of same in the United States mail with sufficient postage thereon to ensure delivery, addressed to its counsel of record as follows:

M. Diane Owens, Esq.
Anandhi S. Rajan, Esq.
Bradley S. Wolff, Esq.
Swift, Currie, McGhee &
Hiers, LLP
The Peachtree, Suite 300
1355 Peachtree Street, NE
Atlanta, Georgia 30309

Jennifer H. Chapin, Esq.
Savell & Williams, LLP
2700 Harris Tower
233 Peachtree Street
Atlanta, Georgia 30303

Stuart Teague, Esq.
Teague & Chambless, LLLP
5860 Clarion Street
Suite 201
Cumming, Georgia 30040

Anita Kant, Esq.
Lober Dobson & Desai, LLC
3410 Overland Drive
Roswell, Georgia 30075

20 West Land Co., LLC
c/o Pamela D. Sessions,
Registered Agent
5827 Long Park Road
Cumming, Georgia 30040

Silver Creek Development, LLC
c/o Pamela D. Sessions,
Registered Agent
5827 Long Park Road
Cumming, Georgia 30040

This 3rd day of June, 2014.



VINAY BOSE, Pro Se

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
770-480-1111

FILED IN OFFICE

JUL 10 2014

COURT CLERK
CLERK COURT OF APPEALS OF GA

RECEIVED IN OFFICE
2014 JUL 11 PM 3:00
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS OF GEORGIA

No. A14A1689

VINAY BOSE, PRO SE

Cross-Appellant,

v.

R.C. ACRES, INC.

Cross-Appellee.

REPLY BRIEF OF CROSS-APPELLANT
VINAY BOSE, PRO SE

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
Telephone: 770-480-1111

PART ONE: VINAY BOSE JOINING REPLY BRIEF OF CROSS-APPELLANT

MOMMIES PROPERTIES, LLC

COMES NOW, Vinay Bose who would like to join the Reply Brief of Cross-Appellant Mommies Properties, LLC, for this Conditional Cross Appeal. All parts of the Reply Brief of Cross-Appellant Mommies Properties, LLC's are hereby incorporated by reference as if rewritten in their entirety.

Respectfully submitted, this 10th day of July, 2014.



VINAY BOSE, Pro Se

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
770-480-1111

CERTIFICATE OF SERVICE

This is to certify that I have this date served all other parties with the within and foregoing by placing a copy of same in the United States mail with sufficient postage thereon to ensure delivery, addressed to its counsel of record as follows:

M. Diane Owens, Esq.
Anandhi S. Rajan, Esq.
Bradley S. Wolff, Esq.
Swift, Currie, McGhee &
Hiers, LLP
The Peachtree, Suite 300
1355 Peachtree Street, NE
Atlanta, Georgia 30309

Jennifer H. Chapin, Esq.
Savell & Williams, LLP
2700 Harris Tower
233 Peachtree Street
Atlanta, Georgia 30303

Stuart Teague, Esq.
Teague & Chambless, LLLP
5860 Clarion Street
Suite 201
Cumming, Georgia 30040

Patricia Whitney
d/b/a Flowered Rock Farm
3450 Bentwood Drive
Cumming, Georgia 30041

20 West Land Co., LLC
c/o Pamela D. Sessions,
Registered Agent
5827 Long Park Road
Cumming, Georgia 30040

Silver Creek Development, LLC
c/o Pamela D. Sessions,
Registered Agent
5827 Long Park Road
Cumming, Georgia 30040

This 10th day of July, 2014.



VINAY BOSE, Pro Se

Vinay Bose
3001 Wembley Ridge,
Atlanta, Georgia 30340
770-480-1111

**IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA**

FILED IN OFFICE
2014 JAN 30 PM 4:43

R.C. ACRES, INC.,	:	
	:	
Plaintiff/Petitioner,	:	CIVIL ACTION
	:	
vs.	:	FILE NO. 09CV-1442
	:	
CAMBRIDGE FAIRE PROPERTIES, LLC;	:	
MOMMIES PROPERTIES, LLC; WHITE	:	
REPAIR & CONTRACTING COMPANY;	:	
PATRICIA WHITNEY, d/b/a FLOWERED	:	
ROCK FARM; VINAY BOSE; 20 WEST	:	
LAND CO., LLC and SILVER CREEK	:	
DEVELOPMENT, LLC; DEWEY WHITE	:	
	:	
Defendants/Respondents.	:	

CREG S. ALLEN, CLERK
SUPERIOR & STATE COURT
FORSYTH COUNTY, GEORGIA

.....

Vinay Bose	:
	:
Third Party Plaintiff	:
	:
Vs.	:
	:
Benjamin Friedman,	:
	:
Third Party & Counterclaim Defendant	:

.....

NOTICE OF CONDITIONAL CROSS APPEAL

Notice is hereby given that Vinay Bose, Defendant is the above-styled matter, hereby files this "Conditional Cross Appeal" to the Court of Appeals from the trial court's Order entered on November 6, 2013 denying Defendant Vinay Bose's Motion for Spoliation Sanctions. A true and correct copy of the order appealed is attached hereto as Exhibit "A," and is incorporated herein by reference as if rewritten in its entirety. This Conditional Appeal is conditioned upon

the grant of the Plaintiff's appeal and should be deemed withdrawn in the event of affirmance of the verdict and judgment or dismissal of the main appeal.

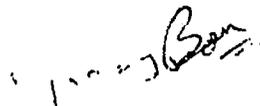
The clerk will please include the following in a separate record on the conditional cross appeal and omit all other portions of the record:

1. Only those documents requested by Defendant Mommies Properties, LLC in its cross appeal;
2. Defendant Vinay Bose will share in the cost of preparing the limited record with Defendant Mommies Properties, LLC.

The Georgia Court of Appeals has jurisdiction over this case for the reason that jurisdiction is conferred on the Georgia Court of Appeals by Georgia Constitution Article 6 § 5, and it is not otherwise reserved in the Georgia Supreme Court by Georgia Constitution Article 6, § 6. Stutts v. Moore, 218 Ga. App. 624 (2013).

Respectfully Submitted,

This 30th day of January, 2014.



Vinay Bose, Pro Se
3001 Wembley Ridge
Atlanta, GA 30340
770-480-1111

**IN THE SUPERIOR COURT OF FORSYTH COUNTY
STATE OF GEORGIA**

R.C. ACRES, INC.,	:	
	:	
Plaintiff/Petitioner,	:	CIVIL ACTION
	:	
vs.	:	FILE NO. 09CV-1442
	:	
CAMBRIDGE FAIRE PROPERTIES, LLC;:	:	
MOMMIES PROPERTIES, LLC; WHITE :	:	
REPAIR & CONTRACTING COMPANY; :	:	
PATRICIA WHITENY, d/b/a FLOWERED :	:	
ROCK FARM; VINAY BOSE; 20 WEST :	:	
LAND CO., LLC and SILVER CREEK :	:	
DEVELOPMENT, LLC; DEWEY WHITE :	:	
	:	
Defendants/Respondents.	:	

Vinay Bose	:	
	:	
Third Party Plaintiff	:	
	:	
Vs.	:	
	:	
Benjamin Friedman, "Mystery Man"	:	
	:	
Third Party Defendant	:	

CERTIFICATE OF SERVICE (Rule 5.2)

Pursuant to Uniform Superior Court Rule 5.2 (2), I hereby certify that on the date below I have served opposing counsel and co-defendant's counsel and co-defendant with the foregoing

NOTICE OF CONDITIONAL CROSS APPEAL

by placing a copy in the United States Mail, with sufficient postage affixed thereon to ensure delivery, addressed to:

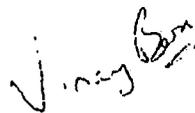
To: R.C. Acres, Inc.
Ben Friedman, Counter Claim Defendant
c/o Ms. Diane Owens
Swift, Currie, McGhee & Hiers, LLP
The Peachtree, Suite 300
1355 Peachtree Street, NE
Atlanta, Georgia 30309

To: Cambridge Faire Properties, L.L.C Et Al
c/o Jennifer Chapin,
2700 Harris Tower,
233 Peachtree Street, NE,
Atlanta, GA 30303

To: Patricia Whitney
d/b/a Flowered Rock Farm,
3450 Bentwood Drive
Cumming, GA 30041

To: Mommies Properties, LLC
c/o Stuart Teague
Teague & Chambless, LLLP
Vickery Village
5860 Clarion Street, Suite 201
Cumming, Georgia 30040

This 30th day of January, 2014.



Vinay Bose, Pro Se
3001 Wembley Ridge
Atlanta, GA 30340
770-480-1111

Return brief -
 It should re-file brief
 of appeal once his
 not has been docketed
 in COA.

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Return to Search

Add a Note									
Also, returned Reply Brief of Cross-Appealant Vinay Bose, Pro Se 7/14/14									
Date: 07/14/2014 User: benderp									
Brief of Cross-Appealant Vinay Bose, Pro Se filed 6/3/14 and docketed as Brief/Other Party marked as docketed in error 7/14/14. Mr. Bose is not nt in this cases, however, Mr. Bose has a Notice of Appeal that has bot yet been docketed in COA.									
Date: 07/14/2014 User: benderp									
Docket Date: 05/14/2014 Term: S14 Docket Calendar: 0914 Status: P Notes: Yes									
Panel: P. J. Anne Elizabeth Barnes, J. Michael P. Boggs, J. Elizabeth L. Branch Opinion Status: ND									
Assigned Judge: J. Michael P. Boggs Assigned Division: 3 Short Number: 90-082 Assignment Type: System									
Case Number: A14A1689									
Case Style: MOMMIES PROPERTIES, LLC v. R. C. ACRES, INC.									
Short Style: MOMMIES PROPERTIES, LLC v. R. C. ACRES, INC.									
Case Style: MOMMIES PROPERTIES, LLC v. R. C. ACRES, INC.									
<input type="checkbox"/> General Docket <input type="checkbox"/> Lower Court <input type="checkbox"/> Party/Attorney <input type="checkbox"/> Filings <input type="checkbox"/> Judgment <input type="checkbox"/> Certiorari <input type="checkbox"/> Remittitur <input type="checkbox"/> Notes <input type="checkbox"/> Case History									

Case Management

Log

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 3, 2014

To: Mr. James R. Clay, GDC1001326571, Georgia Diagnostic and Classification Center,
State Prison, Post Office Box 3877, Jackson, Georgia 30233

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- A copy of the Rules of the Court of Appeals has been included for your review.
- Also enclosed is Postal Money Order #22122388574 in the amount of \$80.00 made payable to the Court of Appeals of Georgia.

For Additional information, please go to the Court's website at: www.gaappeals.us



POSTAL MONEY ORDER

Serial Number
22122388574

Year, Month, Day
2014-07-01

Post Office
300963

U.S. Dollars and Cents
\$80.00

Amount
EIGHTY DOLLARS & 00¢ *****

Pay to

Court of Appeals of Ga

Clerk

0004

Address

117 Indigo Ave SW #501
Atlanta, Ga 30334

From

James R. Clay

Address

Box 3877
Jackson, Ga 30233

Memo

Clay #1001326571

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SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

00000800 21

22122388574



2014

Georgia Court of Appeals

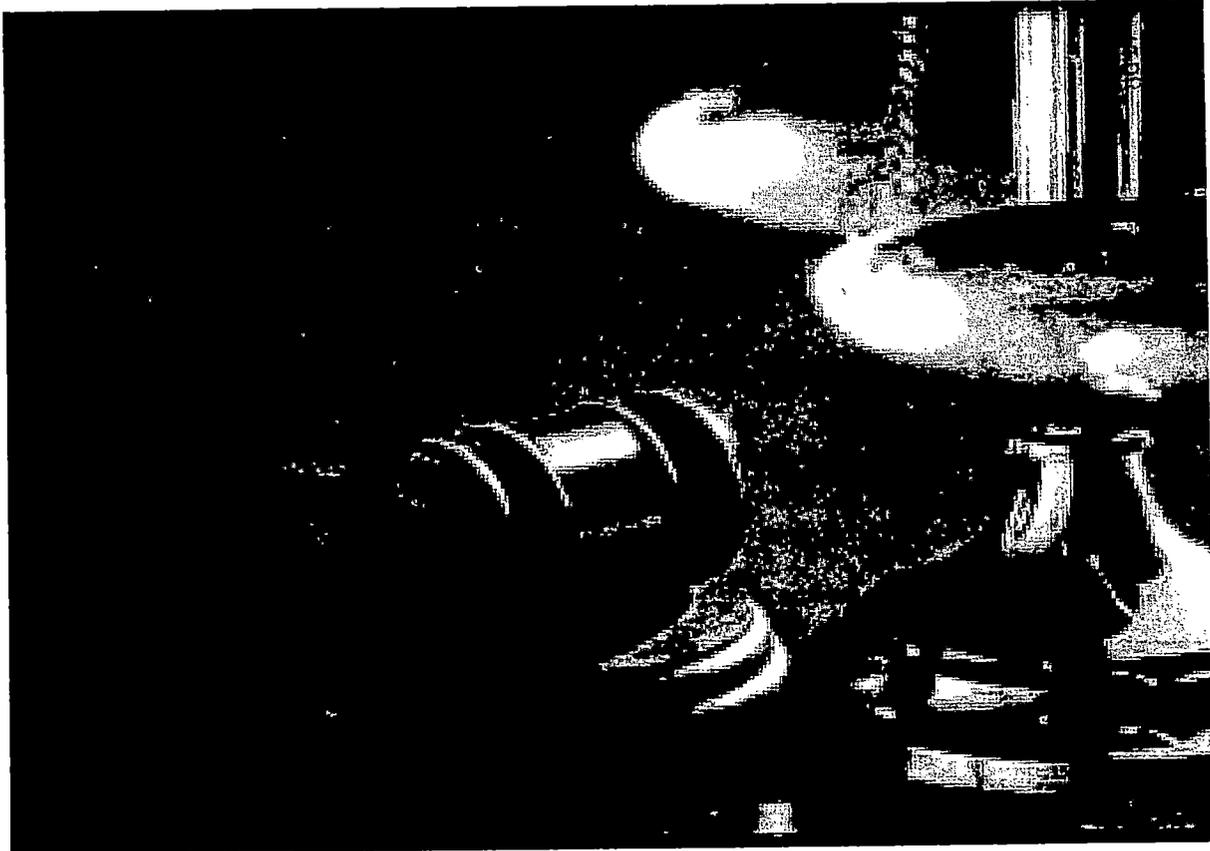
R U L E S

Last Update: May 15, 2014

State of Georgia vs. James Rashad Clay

Court of Appeals of Georgia

RECEIVED IN OFFICE
2014 JUL -9 AM 10
CLERK OF SUPERIOR COURT
COURT OF APPEALS



2

**Court of Appeals of Georgia
47 Trinity Avenue, S.W., Suite 501
Atlanta, GA 30334**

State of Georgia vs. James Rashad Clay

Case Number 12-B-04745-3

July 1, 2014

Case No. 12-B-04745-3

Certified Return No: 7014 0150 0000 6870 1136

Court of Appeals of Georgia
47 Trinity Avenue, S.W., Suite 501
Atlanta, GA 30334

**RE: State of Georgia vs. James Rashad Clay
Motion to File for an Appeal**

To Whom It May Concern:

I am writing this vital letter pertaining to obtain a reversal unfair justice decisions and judgments against me through the state court due to my wrongful conviction dated on May 22, 2014,

Mr. James Rashad Clay CDC No. 99417757, Case No. 12-B-04745-3 have been charged with five counts that includes: Count 1-malice murder, Count 2-felony murder, Count 3-aggravated assault, Count 4-aggravated assault and Count 5-possession of a firearm or knife during commission of a felony. My case had begun on May 21, 2014 and ended May 22, 2014. I have never known a murder trial case that would last only for one day. I initially feel that I did not receive a fair trial in my case with not enough sufficient evidence to substantiate a conviction on my behalf for all counts of these serious offenses held against me. The verdict in this particular case is life imprisonment plus 25 years. The appointed attorney that had presided over my case represented me ineffectively, unfairly and unprofessional. I had filed a few motions to dismiss the attorney from my case but the judge denied my request. I knew that the case against me would be biased.

A formal complaint relating to several occurrences that involves the misconduct of various officials employed by the Gwinnett County Police Department. I am further requesting immediate investigation based on several factors stated herein that "numerous others" here at the Detention Center have been unlawfully charged with serious offenses, fraudulent documents by Gwinnett County Police Department Robbery Division and Homicide Squad.Detectives. I have been detained in Gwinnett County Sheriff's Department located in 2900 University Parkway NE, Lawrenceville, Georgia 30043 since July 5, 2012.

The aforementioned Law Officials in unison with selected County Magistrates E.G. Phyllis M. Russell, James R. Argo, William F. Bragdon, and Robert W. Mitchum under the direct supervision of Chief District Attorney Mr. Daniel Porter. Indirect violation of state and federal laws set forth have illegally processed an insurmountable amount of factious police reports presenting them before the county's Grand Jury; unlawfully securing Bill of Indictments. In further support of this fact, the complainant's show the following:

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 7, 2014

To: Mr. Henry L. Dobbs, GDC511239, Riverbend Correctional Institution, 198 Laying Farm Road, Milledgeville, Georgia 31061

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your correspondence to your attorney or the trial court clerk.
- Your amended Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the amended Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the amended Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your amended Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ . The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- Your correspondence was addressed to Ms. Holly K.O. Sparrow, who retired in August, 2013. The new Clerk/Court Administrator is: Mr. Stephen E. Castlen.

For Additional information, please go to the Court's website at: www.gaappeals.us

July 1st, 2014

Court of Appeal of Georgia
Holly K.O. Sparrow
Clerk and Court Administrator.

I have enclosed an Amended Notice of Appeal, along with a Pauper's Affidavit. I also included a Certificate of Service. The same exact copy's were mailed to Rhonda Payne, Douglas County Superior Court clerk for district attorney office, this same date July 1st, 2014.

RECEIVED IN OFFICE
2014 JUL -3 PM 06
CLERK COURT AND APPELLATIONS
COURT OF APPEALS OF GA

Court of Appeals of Georgia

RE: Henry Louis Dobbs v. State of Georgia

Amended Notice of Appeal

RECEIVED IN OFFICE
2014 JUL -3 PM 34 06
CLERK OF SUPERIOR COURT
COURT OF APPEALS OF GA.

Come now Henry L. Dobbs the defendant in the Above style case, file this Amended notice of Appeal to the Court of Appeals of Georgia for the denial of his Motion for resentencing in the Superior Court of Douglas County by showing the following:

1) On January 30, 2012. The defendant entered a negotiated plea of guilty in the Superior Court of Douglas County to one count of possession of cocaine with the intent to distribute 5 grams of cocaine. The defendant Attorney Horraine R. Silvo and Douglas County district Attorney Bonnie Smith went on record with the agreement for the defendant to enter a negotiated guilty plea of 30 years. The first 10 in custody and the remaining 20 banishment from Douglas County. (See January 30, 2012 guilty plea transcript, page 8 line 19 through 22). The trial court use his discretion and sentence the defendant as a recidivist under GA. Code §17-10-7 (c). And rejected the original plea agreement of 20 years banishment to 20 years probation.

2) The defendant filed a Motion to Withdraw the guilty plea. This motion was denied by the Superior Court of Douglas County on June 27, 2012.

3) On April 15, 2014 the defendant filed a Motion For Resentencing with the Superior Court of Douglas County. This motion was denied on April 22, 2014.

4) According to the indictment the defendant were charge and indicted under O.C.G.A §16-13-30 (b) For possessing with the intent to distribute.

Under Ga. Code Ann §16-13-30 (d) provide a specific sentencing scheme for defendant convicted more than once of possessing Cocaine with the intent to distribute under Ga. Code Ann §16-13-30 (b). For this reason, the general recidivist scheme of Ga. Code Ann §17-10-7 will apply to multiple conviction under Ga. Code Ann §16-13-30 (b) only if Ga. Code Ann §16-13-30 (d) permits the applicability of Ga. Code Ann §17-10-7.

O.C.G.A §16-13-30 (d) provides that upon a second or subsequent conviction of possessing of a controlled substance with the intent to distribute, the trial court has the discretion to impose a sentence of not less than ten years nor more than 40 years or life imprisonment. The provision of subsection (a) of Code Section §17-10-7 shall not apply to a sentence imposed for a second such offense; however that the remaining provision of Code Section §17-10-7 shall apply for any subsequent offense.

There are no admissible evidence presented in the record of the defendant that will support he have been convicted of more than one possession with the intent to distribute cocaine under Ga. Code Ann §16-13-30 (b). The defendant has no prior conviction for possessing of cocaine with the intent to distribute as proof of him being a repeat offender of this offense.

Ga. Code Ann §17-10-7 (c) original created for repeat violent offender convicted of serious violent felons. The defendant were charge and convicted with possession

with the intent to distribute cocaine a non-violent offense

5) The trial Court of Douglas County sentence the defendant AS A recidivist under Ga. Code Ann §17-10-7 (c) from prior felony convictions he received in the year of 1990 from Carroll, Polk, And Haralson County. Although each offense was charge in separate indictment, the trial Court in each county ran their conviction concurrent with the conviction the defendant received in the first county. The defendant serve one prisor term for all the conviction he received in each county. For the convictions to be deemed AS seperate convictions, the trial Court in each county must run their conviction consecutive with the conviction the defendant recieved in the other counties, Giving the defendant a date to start and end each conviction. Although the trial Court use the felony convictions to sentence the defendant AS A repeat offender The conviction should be consolidated and deem AS just one conviction for sentencing purposes. GCIC modified the defendant record pursuant to O.C.G.A 42-8-65 (b) (see attached page the defendant criminal history report page 5 of 13).

In Stone v. State, 245 Ga. App 728, 538 S.E 2d 791 (2000) Appellant challenged the judgement of Jeff Davis Superior Court (Georgia) sentencing him to ten years in prison without parole under Ga. Code Ann §17-10-7 (c) which governed sentencing of repeat offenders, upon his plea of guilty to violating the Georgia Controlled Substance Act by selling 5 pounds of marijuana to undercover law enforcement officer. Though they were charge in seperate indictment, Appellant 1994 convictions were consolidated and deemed one conviction for sentencing purposes. Thus, he had only two prior conviction and could not be sentence AS A repeat offender.

Overview - The State tendered three prior felony convictions in Aggravation of punishment under Ga. Code Ann §17-10-7 (c), which governed sentencing for repeat offenders. In 1994, Appellant was arrested for violating V.G.C.S.A

In Williams v. State, Case No. A98A2294 (January 5, 1997), Settie Williams was sentenced as a recidivist under O.C.G.A. §17-10-7(c) after the trial court found that he had 6 prior felony convictions imposed on 3 separate occasions. Williams appealed contending there was no admissible evidence in the record to support the trial court finding and the State agreed in its brief that the sentence was not supported by the record. The Court of Appeals vacated the sentence and remanded the case for resentencing, finding the trial court erred in considering the prior convictions which were not supported by admissible evidence when sentencing the defendant.

And for possession a firearm by a convicted felon. Both offenses occurred on the same day, and it was undisputed that both offenses arose out of the same conduct. The Court concluded that the two offenses were consolidated for trial, had appellant opted to go to trial rather than enter a guilty plea, the state would have been required to consolidate the offenses for trial, and appellant would have been deemed to have had only one conviction for sentencing purposes. Thus, the appellant had only two prior convictions and the trial court erred in sentencing appellant under §17-10-7(c) Therefore, his sentence was vacated and the case was remanded for sentencing.

Conclusion

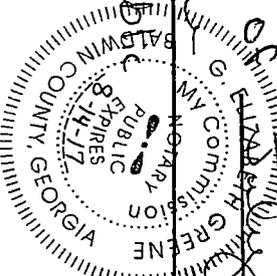
The defendant Henry L. Dobbs pray this Honorable Court of Appeals of Georgia vacate the sentence impose by the Superior Court of Douglas County. And remand the case for resentencing based on the foregoing Facts Avertisments presented in this Amended Notice of Appeal. And any relief this Honorable Court deem is appropriate.

I declare or certify, verify or state under penalty of perjury that the foregoing statements in this Amended Notice of Appeal are true and correct.

Executed on July 1, 2014.

Henry L. Dobbs
Signature

Sworn to and subscribe before me this
1st day of July 2014.

Q E Green
Notary Public


Henry Louis Dobbs
DOC # 511939
Riverbend Correctional Facility
198 Loring Farm Road
Willadesville GA. 31061

Pauper's Affidavit

Come now Henry L. Dobbs and first being duly sworn, state because of my indigence I am financially unable to pay the required filing cost in the Superior Court of Douglas County and the Court of Appeals of Georgia to appeal and the denial of the Motion For Resentencing. And I request that I be permitted to file this appeal without having to pay filing fee and for plea hearing transcript from 1-30-2012.

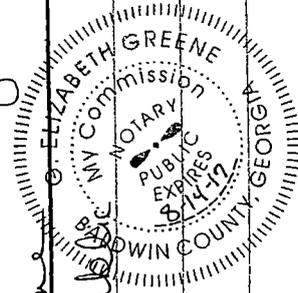
This 1st day of July 2014.

Henry L. Dobbs
Signature
GDC# 511239

Riversend Correctional Facility

Sworn to and subscribe before me 198 Haying Farm Road
this 1st day of July 2014. Milledgeville Georgia, 31061

AEL Greene
Notary Public



Certificate of Service

This is to certify that I have this day served the following with a true and exact copy of the within and foregoing of this Amended Notice of Appeal for the denial of the Motion For Resentencing in the Superior Court of Douglas County.

Court of Appeals of Georgia

Holly K.O. Sparrow

Clerk and Court Administrator

47 Trinity Avenue, Suite 501

Atlanta, Georgia 30334

Rhonda G. Payne

Clerk Superior Court,

District Attorney Office

8700 Hospital Drive

Douglasville Georgia 30134

This 1st day of July 2014

Respectfully Submitted,

Henry L. Dobbs

GDC # 511239

Riverbend Correctional Facility

198 Haying Farm Road

Milledgeville Georgia 31061

--OTHER SENTENCE CONDITION GCIC HAS MODIFIED
THIS RECORD PURSUANT TO O.C.G.A. SECTION
42-8-65(b); HOWEVER THE COURT MUST REVOKE THE
FIRST OFFENDER STATUS TO HAVE A CONVICTION
DEFINED BY O.C.G.A. SECTION 17-10-7(b) (2)
OTHER SENTENCE TYPE
--OTHER SENTENCE CONDITION DKT#CR881235
FINE \$750
PROBATION 4 YEARS

=====
OTN 00017133830 (Cycle 3 of 10) =====
Offender Tracking Number (OTN) 00017133830
Earliest Event Date 1988-12-16
Offense Date 1988-12-16
Arrest SRF 33890944

--
Arrest (Cycle 3)
Arrest Date 1988-12-16
Case Number
Arresting Agency GA0220000 CARROLL COUNTY SHERIFFS OFFICE
Subject's Name DOBBS, HENRY LOUIS
Arrest Type Adult

Charge
Charge Tracking Number 00017133830-1
Charge Literal PURCHASE/POSSESS/CONTROL - DRUG NAME MUST BE
ENTERED IN CHARGE COMMENT FIELD
Statute 16-13-30(A); GA
State Offense Code 3512
Severity Felony

=====
OTN 00023973456 (Cycle 4 of 10) =====
Offender Tracking Number (OTN) 00023973456
Earliest Event Date 1990-01-30
Offense Date 1990-01-30
Arrest SRF 38012047
Judicial SRF
62962690,62962690,62962690

--
Arrest (Cycle 4)
Arrest Date 1990-01-30
Case Number
Arresting Agency GA0220000 CARROLL COUNTY SHERIFFS OFFICE
Subject's Name DOBBS, HENRY LOUIS
Arrest Type Adult



Court of Appeals of Georgia

July 8, 2014

TO: Mr. Bruce M. Greer, GDC823740 D-1, Rutledge State Prison, 7175 Manor Road,
Columbus, Georgia 31907

RE: **Request for Rules of the Court of Appeals of Georgia**

REQUEST FOR COPIES

- We received your request for copies. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. **The Court of Appeals of Georgia is not subject to the Open Records Act.**

The appellant's Brief contains _____ pages.

The appellee's Brief contains _____ pages.

The opinion contains _____ pages.

Other:

The copies you requested are a total of _____ pages totaling \$_____.

Please send your check or money order to the following address specifying what copies you wish be sent to you. Your request will be processed and sent to you by return mail.

Court of Appeals of Georgia
47 Trinity Avenue, S.W. • Suite 550
Atlanta, Georgia 30334

REQUEST FOR FORMS

- This Court does not have the forms you requested.

~~COURT RULES~~

- At your request, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review. This Court does not have copies of the Georgia Constitution handbook. You will need to write the appropriate authority for a copy of that publication.

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing.



2014

Georgia Court of Appeals

R U L E S

Last Update: May 15, 2014

RECEIVED IN OFFICE

2014 JUL -8 PM 1:39

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

TO: THE CLERK'S OFFICE
COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVE.
ATLANTA, GA 30334

RE: COPY OF THIS COURT'S RULE BOOK AND
A COPY OF THE GA, CONST, HANDBOOK.

DEAR CLERK,

PLEASE SEND THE ABOVE SAID, I'VE CURRENTLY
GOT A CASE COMING TO THIS COURT AND NEED A
RULE BOOK,

ALSO THE PAMPHLET / HANDBOOK OF THE GA.
CONST., YOUR ASSISTANCE IS GREATLY
APPRECIATED.

THIS 30TH DAY OF JUNE, 2014.

RESPECTFULLY SUBMITTED,

Bruce M. Greer

BRUCE M. GREER # 823740
RUTLEDGE STATE PRISON / D-1
7175 MANOR ROAD
COLUMBUS, GA 31907

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

July 8, 2014

To: Mr. Elliott Jay Franklin, GDC149083 J1-147, Washington State Prison, Post Office Box 206
Davisboro, Georgia 31018

Docket Number: A14A1608 **Style:** Elliot J. Franklin v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **An improper Certificate of Service accompanied your document(s). Rule 6**
5. **Your Certificate of Service did not include the complete name and mailing address of each opposing counsel. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: _____

APPELLANT ON MAY 2002 WERE ARRESTED AND DEPORTED WITHOUT THE MANDATED EXERCISE OF ACQUIRING PERSONAL JURISDICTION. UPON ARREST WARRANTS BEING ISSUED BY ISSUING OFFICER TEN (10) DAYS AFTER THE FACT AND FAILED TO PROVIDE THE MAGISTRATE WITH A SUFFICIENT SHOWING OF PROBABLE CAUSE AS REQUIRED BY GEORGIA'S BILL OF RIGHTS ART. 1, SEC. 1, PAR. XIII AND IV AMENDMENT OF THE UNITED STATES CONSTITUTION. THERE ARE SUBSTANTIVE REQUIREMENTS THAT PROVIDE THE EXERCISING OF THE CONSTITUTIONAL AND THIS STATE AND UNITED STATES CONSTITUTION WERE ACQUIRING JURISDICTION OVER PERSONS CHARGED WITH THE COMMISSION OF A CRIME. THE PATTERN UTILIZED UPON ARREST AS SET OUT IN GEORGIA'S LAW DOES NOT MEET THE CONSTITUTIONAL REQUIREMENTS FOR THE EXERCISING OF THE CONSTITUTIONS, THE PREDICATED UPON ACTS OF PERJURY OF THE ISSUING OFFICER.

STATEMENT OF FACTS

CONES NOW APPELLANT ELIOTT JAY FRANKLIN, AS THE ABOVE-STYLED ACTORS, AFFIRMATIVELY CONTENDING WITH SUPPORTING CASE LAW, THE SAID APPELLANT CONVICTION AND SENTENCE IS VOID PURSUANT TO O.C.G.A. § 17-9-4 AND SHOULD BE VACATED. DUE TO THE ABSENCE OF APPELLANT'S CONSTITUTIONAL ESTABLISHMENT OF DUE PROCESS OF LAW. APPELLANT ARGUES THAT SAID 'CAUSE' OF THE DUE PROCESS VIOLATION, AS BASED UPON THE FACT THAT APPELLANT FRANKLIN'S CONVICTION WAS MATERIALLY DEFECTED, AFFECTING THE SUBSTANCE AND REAL MERIT FOR FAILURE TO CHARGE ALL NECESSARILY ESSENTIAL ELEMENTS AND ACT FOR OFFENSE CHARGED, THIS RENDERING THE JUDICMENT VOID AND INCOMPATIBLE TO SUPPORT A CONVICTION. METZ V. STATE, 507 S.E.2D (1988); SMITH V. HARRICK, 464 S.E.2D (1995)

AND SENTENCE

BRIEF AS SUPPORT OF MOTION TO VACATE VOID CONVICTION

COURT OF APPEALS OF GEORGIA
 APPELLANT,
 VS.
 APPEAL CASE NO. A14A1608
 2002051955.1

ELIOTT JAY FRANKLIN
 APPELLANT,
 VS.
 STATE OF GEORGIA

FILED IN OFFICE
 JUL - 3 2014
 COURT CLERK
 CLERK COURT OF APPEALS OF GA

RECEIVED IN OFFICE
 2014 JUL - 7 PM 4:09
 CLERK/COURT ADMINISTRATOR
 COURT OF APPEALS OF GA

If had the Magistrate performed an independent examination of the contents set out in the affidavits and law enforcement criminal warrant application of probable cause supplemental used to obtain the warrant; then it would have been apparent that the allegations were not with truthfulness. The claim of the above appellant, pursuant to his brief in support of his motion to vacate void conviction and sentence, are to be determine upon the showing of constitutional violation of which the appellant is entitled under the fourteenth amendment, giving protections of the fourth, fifth, sixth, eighth, ninth, and Georgia constitution as they relate to aforementioned constitution. The appellant allege that personal jurisdictions have not been acquired and to failure to do so began with the arrest, which led to a malicious prosecution resulting in false imprisonment of the appellant. Appellant alleged that the officer concealed exculpatory evidence and presented false testimony that cause appellant incarceration.

The record in this case includes evidence that the state's main witness affidavit contained neither information providing that basis for the affiant's belief nor any affirmative allegation that the affiant had personal knowledge of the circumstances surrounding the commission of crime or making a false report. Thus, the Magistrate could not possibly have conducted the independent assessment required by U.S. Const. Amend. IV of the probability that Mr. Franklin committed the crime charged. It also held that a subsequent indictment did not retroactively provide probable cause for an arrest that had already taken place.

The state failed to meet the burden of providing probable cause, for the unlawful stop conducted on 5/20/2000 at 9:20 p.m., by officer Phillip Bradford of the Covington Police Department by failure to find Mr. Franklin guilty beyond a reasonable doubt, for the basis of the stop to wit: "omission" burglary alarm at a car lot, in criminal case no. 2000CR955.1. Officer Bradford's conduct as well as the District Attorney office in this case is a clear indication that Mr. Franklin was "railroaded" and that manifest injustice occurred in this case. Mr. Franklin further contends that a hearing is necessary to further develop the facts surrounding this obvious misconduct which bring into question the trustworthiness of the outcome in this case.

on July 16, 2002, the day of trial, Elliott Franklin met his court appointed counsel, Thomas D. Humphries. Appellant as deprived of his right to effective assistance of counsel when his attorney as not prepared to try his case, regardless of the competency of counsel, a jury was picked for the trial, and on that date that it

order dated 07/18/01.

The evidence. The motion was heard on June 12, 2001 and was denied in a written order dated 07/18/01.

2002.

Mr. John Lind, of the public defender office, filed a motion to suppress was done on July 3, 2001, and the case was finally called for trial on July 15, called for trial on October 29, 2001, but was not reached. Another status conference indicated that a status conference was held on June 12, 2001 and the case was that the public defender office were appointed after his arraignment. The record does there as no pre-trial order in the file, which more than likely means

criminal trial counsel representing a client as a civil action. Right. This motion as based directly on the ethical problems involved with former was required to provide counsel for his trial and for his first appeal as a matter of Mr. Franklin was found to lack the financial resources to retain counsel, the state counsel to withdraw as attorney for appellant Elliott Franklin on May 7th, 2001 because was appointed to represent him on May 29, 2001. After the order permitting returned as to the drug charges; the records show that the public defender office

arrests. This motion was heard and granted on July 15, 2001. And the state filed a motion to revoke his prior bonds because of his repeated arrest twice for theft by shoplifting (felony). He posted bond on both shoplifting, while license suspended, while out on bond for the drugs charges, he was at the time of his arrest, he was out on bond for a charge of driving

charged as the indictment are included in the jury instruction. charged as the indictment were three counts, possession of cocaine with intent to distribute, possession of marijuana with intent to distribute, and obstruction of an officer (felony), but that portion of the possession of cocaine with intent to distribute, possession of marijuana with intent to distribute, and obstruction of an officer (felony), possession of marijuana with intent to distribute, possession of cocaine with intent to distribute was neither

on July 16, 2002, the day of trial, Elliott Franklin met his court appointed

was to be tried, Mr. Franklin asked the judge to continue the case. The trial counsel then advised the trial judge of what he had done in the case, and the judge denied the request.

Defense counsel failed to place the District Attorney's recommendation to Mr. Franklin on the record, as he anticipated that Mr. Franklin would complain copiously after trial of convicted and sentenced.

The original offer from the District Attorney was twenty (20) to serve 8; this was later reduced to twenty (20) to serve 6; and this was reduced, just prior to trial, to twenty (20) to serve 4, to avoid a trial for which he was not prepared.

Mr. Franklin was not advised that if he proceeded to trial that day, he would be exposing himself to a possible twenty (20) years sentence exchange punishment, for drugs offense, even though prior offense were not set out in the indictment, if convicted by a jury. Despite his strong reluctance and belief of his innocence of charged Mr. Franklin proceeded to trial. Following a sentencing hearing on August 30, 2002, petitioner received a sentence of twenty (20) years as a recidivist for the drug conviction, ten (10) years probation for the marijuana conviction, to be served consecutively and twelve (12) months imprisonment for obstruction, to be served concurrently. Through trial counsel, Mr. Franklin filed a motion for a new trial, which was heard on November 4, 2003. The trial court entered an order denying the motion for a new trial on August 4, 2004, along with the November 4, 2003.

Through new counsel, petitioner pursued a direct appeal, raising two issues: 1) The trial court erred in denying the motion to suppress, and 2) ineffective assistance of trial counsel, who allegedly failed to object to the chain of custody regarding the cocaine charge. The court of appeals affirmed petitioner's convictions and sentences. Franklin v. State, 281 Ga. App. 409, 636 S.E.2d 114 (2006).

WHERE THE INVESTIGATION IS NO LONGER A GENERAL INQUIRY INTO UNASSIGNED CRIME BUT HAS BEGUN TO FOCUS UPON PARTICULAR SUSPECT, THE SUSPECT HAS BEEN TAKEN INTO POLICE CUSTODY; THE POLICE CARRY OUT PROCESS OF INTERVIEWING AS

STEP ONE: DENIED EFFECTIVE ASSISTANCE OF COUNSEL, AND POLICE HAVE NOT EFFECTIVELY WARNED HIM OF HIS ABSOLUTE CONSTITUTIONAL RIGHT TO REMAIN SILENT, THE ACCUSE HAS BEEN DENIED CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL

ARGUMENT AND CITATION OF AUTHORITIES

- (A) MALICIOUS PROSECUTION
- (B) ALLEGED ACTIVE DECEPTION BY OFFICER BRADFORD
- (C) MALICIOUS ABUSE OF LEGAL PROCESS
- (D) MALICIOUS USE OF PROCESS
- (E) FRAUD
- (F) WANTON MISCONDUCT
- (G) LACHES
- (H) MISFEASANCE OF JUSTICE
- (I) JURY MISFEASANCE
- (J) INEFFECTIVE ASSISTANCE OF COUNSEL

1. PREJUDICIAL ERROR

STEP ONE: DENIED EFFECTIVE ASSISTANCE OF COUNSEL, AND POLICE HAVE NOT EFFECTIVELY WARNED HIM OF HIS ABSOLUTE CONSTITUTIONAL RIGHT TO REMAIN SILENT, THE ACCUSED HAS BEEN DENIED CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL

EXAMINATION OF ERROR

THIS COURT, RATHER THAN THE SUPREME COURT OF GEORGIA, HAS JURISDICTION OF THIS CASE ON APPEAL BASED UPON ITS JURISDICTION OVER ALL CASES NOT RESERVED TO THE SUPREME COURT OR CONFERRED ON OTHER COURT BY LAW AS PROVIDED BY ARTICLE VI, SECTION V, PARAGRAPH 3 OF THE CONSTITUTION OF GEORGIA OF 1983.

STATEMENT OF JURISDICTION

That leads itself to eliciting incriminating statements, suspect has requested
 also been denied opportunity to consult with his lawyer, and police
 have not effectively warned him of his absolute constitutional right to remain
 silent, the accused has been denied constitutional right to assistance to counsel,
 and no statement elicited by police during interrogation maybe use against him
 at criminal trial. Escobedo v. State of Illinois, 378 U.S. 478. 490. 491 S. Ct. 1758. 12
 L. Ed. 2d 971 (1964).

Prior to any criminal interrogation (that is, questioning initiated by law
 enforcement officers after a person is taken into custody or otherwise
 deprived of his freedom in any significant way) the person must be warned:
 1. That he has a right to remain silent; 2. That any statement he does make
 may be used as evidence against him; 3. That he has a right to the presence
 of an attorney; 4. That if he cannot afford an attorney, one will be appointed
 for him prior to any questioning if he so desires. Unless told until these
 warnings or a waiver of these rights are demonstrated at the trial, no evidence
 obtained in the interrogation may be used against the accused. Miranda v.
Arizona, 384 U.S. 436. 449. 478. 479. 86 S. Ct. 1602. 1612. 1630. 16 L. Ed. 694.

A suspect is "in custody" for purpose of determining necessity of Miranda
 warnings if police, by word or by conduct, have manifested to suspect that he
 is not free to leave, such custody exists when the suspect has been deprived of
 his freedom in a significant way, and the place where the interrogation takes
 place does not conclusively establish presence or absence of custody.
 A pre-trial proceeding to determine whether there have been compliance
 with the requirements of the Miranda Rule (q.v.). The outcome will decide whether
 the prosecution will be permitted to introduce into evidence statements of the
 defendant made during custodial interrogation.
 A pre-trial proceeding in criminal cases in which a defendant seeks to
 prevent the introduction of evidence alleged to have been seized illegally, the
 ruling of court then prevails at the trial. The ruling of a trial to the effect
 that evidence sought to be admitted should be excluded because it was illegally
 acquired. Motion to suppress obtained evidence are governed by Fed. R. Crim.
 P. 31 (a), 12, and 41.

Appellant alleged that the trial court erred over objection to the rulings on the motion to suppress, despite a lack of probable cause for his arrest, the issuance of an arrest warrant and subsequent grand jury indictment against officers from liability.

1. PREJUDICIAL ERROR

ERROR SUBSTANTIALLY AFFECTING APPELLANT'S RIGHTS AND OBLIGATIONS.

WHERE THERE IS SUCH A LIMITATION USUALLY IT IS THE DUTY OF THE ARRESTING OFFICER TO TURN THE SUSPECT OVER TO AN OFFICER HAVING A GENERAL POWER OF ARREST. APPELLANT ARGUES THAT SAID "CAUSE" OF THE PREJUDICIAL ERROR, AS BASED UPON ARREST WARRANTS BEING ISSUED BY ISSUING OFFICER TEN (10) DAYS AFTER FACT AND FAILED TO PROVIDE THE MAGISTRATE WITH A SUFFICIENT SHOWING OF PROBABLE CAUSE AS REQUIRED BY GEORGIA'S BILL OF RIGHTS ART. 1, SEC. 1, PAR. XII AND 24 AMENDMENT OF THE UNITED STATES CONSTITUTION.

FRANKLIN'S CONTENTS THAT HE SHOULD BE GRANTED RELIEF BECAUSE O.C.G.A. § 17-4-62 NUMERATES ONLY THAT AN ACCUSED ARRESTED WITHOUT A WARRANT AND DETAINED AS EXCESS OF 48 HOURS WITHOUT HEARING BE RELEASED FROM CUSTODY; IT DOES NOT ACT TO DIVEST THE TRIAL COURT JURISDICTION PROPERLY ACQUIRED OVER SUCH A DEFENDANT. THE APPELLANT ARGUE, HOWEVER, THAT SINCE A WARRANT § 18-6A APP. 3983 FOR HIS ARREST WAS NEVER ASSESSED SINCE HE HAS AT NO TIME DURING THE PROCEEDINGS CONDUCTED IN THE COURTS EXERCISE OF JURISDICTION OVER HIM, SHOULD BE DENIED.

HEREAFTER, APPELLANT, PROCEEDING PRO-SE, REQUEST RELIEF FOR LACK OF JURISDICTION BASED UPON THE ARRESTING OFFICER'S FAILURE TO CONVEY HIM TO A JUDICIAL OFFICER EMPLOYED TO ASSURE WARRANTS WITHIN 48 HOURS OF HIS WARRANTLESS ARREST, PURSUANT TO O.C.G.A. § 17-4-62. THE RECORD SHOWS THE APPELLANT WAS INCARCERATED FROM MAY 20, 2000 UNTIL MAY 23, 2000.

ON MAY 23, 2000, THREE DAYS AFTER FRANKLIN'S ARREST, MR. FRANKLIN WAS TAKEN BEFORE A MAGISTRATE. HENRY BAKER THE MAGISTRATE JUDGE READ THE CHARGE AGAINST MR. FRANKLIN. HOWEVER, EVIDENCE OF PROBABLE CAUSE WAS NOT PRESENTED. THE MAGISTRATE SET BAIL. UNDER GEORGIA LAW, ONLY A SUPERIOR COURT JUDGE MAY SET BAIL FOR SOMEONE ACCUSED OF KILLING COUSIN. SEE O.C.G.A. § 17-6-1 (D)(1) (MICHIE 1996 & SUPP. 1993). ON MAY 29, 2000, TEN (10) DAYS AFTER MR. FRANKLIN WAS ARRESTED -- OFFICER BRADFORD APPLIED TO JUDGE HENRY BAKER THE MAGISTRATE FOR THE WARRANTS AGAINST

MR. FRANKLIN ON ALL CHARGES FOR POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE, POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE AND OBSTRUCTION OF AN OFFICER (P) CHARGES. NO EVIDENCE OF PROBABLE CAUSE WAS PRESENTED AT THE WARRANT HEARING. INSTEAD. IN SUPPORT OF THE COCAINE POSSESSORIAL ARREST WARRANT, OFFICER BRADFORD SWORE OUT THREE CONCLUSORY AFFIDAVIT STATING: "ELLIS FRANKLIN DID HAVE IN HIS POSSESSION A ASPRIN BOTTLE CONTAINING APPROX. 90 OFF WHITE ROCKS OF SUSPECTED CRACK COCAINE. CONTRABAND WAS FOUND INCIDENT TO ARREST FOR OBSTRUCTION OF OFFICER.

WHAT SEARCH IS CONTROLLED BY THE REQUIREMENT OF THE FOURTH AMENDMENT, AND PROBABLE CAUSE IS ESSENTIAL?

AS PREVIOUSLY INDICATED, THE TIME AND PLACE OF A STOP OFFERS SUPPLY AN IMPORTANT PART IN DETERMINING WHETHER OR NOT AN OFFICER HAS AN ARTICULABLE SUSPICION TO JUSTIFY A STOP. A NUMBER OF CASES HAVE EMPHASIZED THE FACT THAT THE STOP WAS MADE IN A "HIGH CRIME AREA." BOBO V. STATE, 153 GA. APP. 679. 266 S. E. 2d (1980).

OUR FIRST TASK IS TO ESTABLISH AT WHAT POINT IN THIS ENCOUNTER THE FOURTH AMENDMENT BECOMES RELEVANT. THIS IS WEI MUST DECIDE WHETHER AND WHEN OFFICER PHILLIP BRADFORD 'SEIZED' MR. FRANKLIN AND WHETHER AND WHEN HE CONDUCTED A SEARCH. THERE IS SOME SUGGESTION AS THE USE OF SUCH TERMS AS 'STOP' AND 'FRISK' THAT SUCH POLICE CONDUCT IS OUTSIDE THE PURVIEW OF THE FOURTH AMENDMENT BECAUSE NEITHER ACTION RISES TO THE LEVEL OF A 'SEARCH' OR 'SEIZURE' WITHIN THE MEANING OF THE CONSTITUTION. WE MUST BE CAREFUL TO DISTINGUISH THAT THE 'FRISK' AUTHORIZED HEREIN INCLUDES ONLY A 'FRISK' FOR A DANGEROUS WEAPON. IT BY NO MEANS AUTHORIZES A SEARCH FOR CONTRABAND EVIDENTIARY MATERIAL, OR ANYTHING ELSE IN THE ABSENCE OF REASONABLE GROUNDS TO ARREST, SUCH A SEARCH IS CONTROLLED BY THE REQUIREMENTS OF THE FOURTH AMENDMENT. AND PROBABLE CAUSE IS ESSENTIAL." STATE V. TERRY, 5 OHIO APP. 2d 122. 130. 214 N.E. 2d 114. 120 (1966). SEE ALSO E.G., ELLIS V. UNITED STATES, 105 U.S. APP. D.C. 86. 88. 264 F. 2d 372. 374 (1959); COMMENT, 65 CAL. L. REV. 848, 860 AND N. 81 (1965). IT IS QUITE PAIN THAT THE FOURTH AMENDMENT GOVERNS "SEIZURES" OF THE PERSON WHICH DO NOT EVENTUATE IN A TRIP TO THE STATION HOUSE AND PROSECUTION FOR CRIME-- ARREST IN TRADITIONAL TERMINOLOGY. IT MUST BE RECOGNIZED THAT WHENEVER A POLICE OFFICER ACCOSTS AN INDIVIDUAL AND RESTRAINS HIS FREEDOM TO WALK AWAY, HE HAS 'SEIZED' THAT PERSON, AND IT IS NOTHING LESS THAN SHEER TORTURE OF THE ENGLISH LANGUAGE

to suggest that a careful exploration of the outer surfaces of a person's clothing all over his or her body as an attempt to find weapons is not a search, moreover, it is simply fantastic to name that such a procedure performed in public by a policeman while the citizen stands helpless, perhaps facing a wall with his hand raised, as a petty indignity.

of this case involved police conduct subject to warrant clause of the Fourth Amendment, the court would have to ascertain whether probable cause existed to justify the search and seizure which took place, however, that is not the case.

A mistaken judgment or an incorrect belief as to the existence or effect of matter of fact, or a false or mistaken conception or application of law to the facts of cause will furnish ground for a review of proceedings and upon a writ of error, a mistake of law, or false or irregular application of it, such as vitiates the proceedings and warrants the reversal of the judgment. An act involving a departure from truth or accuracy, a mistake, an inaccuracy, as an error in calculation.

error is also used as an elliptical expression for "writ of error" as far as saying that error lies. That a judgment may be reversed on error, error which more probably than improbably affected the verdict or judgment prejudicially to the party complaining.

211 RE: CASE NO. 2000CR955.1. THE TRIAL COURT SHOULD ACQUIRE AS TO THEIR JURISDICTION. WHEN WARRANTS WERE ISSUED WITHOUT SUPERVISING AFFIDAVIT AS TO HOW AFFIDAVIT, PHILIP BRADFORD, CAME BY THE INFORMATION IN WHICH HE SWORE, WHEN AFFIDAVIT WAS NOT AN EYE-WITNESS TO ANY CRIME, NOR HOW HE EVEN KNEW THAT A CRIME HAD BEEN COMMITTED. THE OFFICER BRADFORD TO STATE UPON THE JURISDICTION OF A SWORN WARRANT FOR ARREST AS THOUGH HE WERE AN ACTUAL WITNESS TO THE TO THE REIMES RE: CASE NO. 2000CR955.1 IS PERJURED TESTIMONY AND THUS THE WARRANT WAS OBTAINED BY FRAUD.

95 U.S. 714. 24 L. ED. 565.

A challenge of trial courts lack of jurisdiction is a non-waivable constitutional amendment issue, and as above defaulted. DeLaCroye v. Jeff,

(A) MALICIOUS PROSECUTION

AS FAR ERROR IN CALCULATION.

ERROR IS ALSO USED AS AN ELLIPTICAL EXPRESSION FOR "WRIT OF ERROR" AS FAR AS SAYING THAT ERROR LIES. THAT A JUDGMENT MAY BE REVERSED ON ERROR, ERROR WHICH MORE PROBABLY THAN IMPROBABLY AFFECTED THE VERDICT OR JUDGMENT PREJUDICIALLY TO THE PARTY COMPLAINING.

AS FAR ERROR IN CALCULATION.

AN ACT INVOLVING A DEPARTURE FROM TRUTH OR ACCURACY, A MISTAKE, AN INACCURACY, AS AN ERROR IN CALCULATION.

UPON A WRIT OF ERROR, A MISTAKE OF LAW, OR FALSE OR IRREGULAR APPLICATION OF IT, SUCH AS VITIATES THE PROCEEDINGS AND WARRANTS THE REVERSAL OF THE JUDGMENT.

UPON A WRIT OF ERROR, A MISTAKE OF LAW, OR FALSE OR IRREGULAR APPLICATION OF MATTER OF FACT, OR A FALSE OR MISTAKEN CONCEPTION OR APPLICATION OF LAW TO THE FACTS OF CAUSE WILL FURNISH GROUND FOR A REVIEW OF PROCEEDINGS AND UPON A WRIT OF ERROR, A MISTAKE OF LAW, OR FALSE OR IRREGULAR APPLICATION OF IT, SUCH AS VITIATES THE PROCEEDINGS AND WARRANTS THE REVERSAL OF THE JUDGMENT.

AN ACT INVOLVING A DEPARTURE FROM TRUTH OR ACCURACY, A MISTAKE, AN INACCURACY, AS AN ERROR IN CALCULATION.

ERROR IS ALSO USED AS AN ELLIPTICAL EXPRESSION FOR "WRIT OF ERROR" AS FAR AS SAYING THAT ERROR LIES. THAT A JUDGMENT MAY BE REVERSED ON ERROR, ERROR WHICH MORE PROBABLY THAN IMPROBABLY AFFECTED THE VERDICT OR JUDGMENT PREJUDICIALLY TO THE PARTY COMPLAINING.

When the fourth amendment demands a factual showing sufficient to comprise probable cause, the obvious assumption is that there will be a truthful showing. [21 f. 3d 1555] This does not mean "truthful" as the source that every fact recited

As the fernks court explained, a warrant, he requires himself or testifies in reckless disregard of the truth. Under fernks, a police officer violates the constitution if, in order to obtain a clearly established duty not to seek a warrant on the basis of perjured testimony, marijuana possession. Mr. franklin contends that officer breached thereby violated his sworn statement that franklin had committed the offense of cocaine and by contrast, officer berford obtained his arrest warrant on the strength of

officer berford seeking an arrest warrant. Was at best negligent "when he failed to get an exculpatory report from a fellow officer before seeking an arrest warrant."

It was only by offering false testimony and reckless disregard for the truth, cf. west fault-repercell, inc. v. douvan, 689 f. 2d 959 (11th cir. 1982) holding that a warrant is invalid if it was based on a police officer's recklessly false statements and admissions, but not if based on merely negligently false statements (omissions).

That officer berford violated his rights as that respect - he breached violated mr. franklin's based on perjured or recklessly false testimony, said mr. franklin argues fernks held that a police officer violates the constitution by obtaining a warrant

eye-witness to any crime nor how he even knew that a crime had been committed. Berford, came by the information to which he swore, when affidavit was not and or evidence. However, there is no evidence as to how affidavit, Phillip

At the probable cause hearing, officer berford testified upon exculpatory statement (see note).

615 f. 2d 318. 329 (5th cir. 1980); United States v. Astorff, 578 f. 2d 133. 136 (5th cir. 1978) or omissions. See, e.g., west fault-repercell, 689 f. 2d at 959; United States v. Madhira.

Police officer and support of a warrant. The rule does not apply to negligent misrepresentation quite to cases of perjured or recklessly false statements or omissions made by a 615 f. 2d 318. 321-29 (5th cir. 1980). At the same time, we have explicitly limited the fernks rule to cases of perjured or recklessly false statements or omissions made by a fernks involved a search warrant. We have applied it rule in a case challenging a search made pursuant to an unperjuredly obtained arrest warrant. See United States v. Marshall,

438 U.S. 154, 156, 165-71, 48 S.Ct. 2674, 2676, 2681-84, 57 L.Ed. 2d 667 (1978). Although perjured or recklessly false statements in support of a warrant. See fernks v. Delaware, the supreme court has also held that the constitutional prohibits an officer from making

IN THE WARRANT AFFIDAVIT AS NECESSARILY CORRECT, FOR PROBABLE CAUSE MAY BE FOUNDED UPON HEARSAY. AS WELL AS UPON AFFIRMATION WITHIN THE AFFIDAVIT'S OWN KNOWLEDGE THAT SOME TIMES MUST BE PREPARED HASTILY, BUT SURELY IT IS TO BE TRUTHFUL AND THE STATE THAT THE AFFIRMATION BUT FORTH IS BELIEVED OR APPROPRIATELY ACCEPTED BY THE AFFIDAVIT AS TRUE. *Forsyth v. Delaware*, 438 U.S. 154, 165-66, 98 S. Ct. 2674, 2681, 57 L. Ed. 2d 667 (1978) (quoting *United States v. Halsey*, 257 F. Supp. 1002, 1005 (S.D.N.Y. 1966)).

MR. FRANKLIN ALSO CONTENDS THAT OFFICER BEARDER IS LIABLE BECAUSE HE SOUGHT AN ARREST WARRANT BASED ON AN AFFIDAVIT THAT CONTAINED NO EVIDENCE OF PROBABLE CAUSE. IN *MALLEY V. BRIGGS*, 475 U.S. 335, 344-45, 106 S. Ct. 1092, 1098, 89 L. Ed. 2d 271 (1986), THE SUPREME COURT HELD THAT QUALIFIED IMMUNITY DOES NOT PROTECT AN OFFICER WHO SEES A WARRANT ON THE BASIS OF AN AFFIDAVIT THAT DOES NOT SHOW PROBABLY PROBABLE CAUSE -- EVEN IF THE MARGINAL ERROR EMINENTLY ISSUE THE WARRANT. ACCORDING TO BRIGGS, THE DETERMINATIVE QUESTION IS WHETHER A REASONABLY WELL-TRAINED OFFICER WOULD HAVE KNOWN THAT THIS AFFIDAVIT FAILED TO ESTABLISH PROBABLE CAUSE AND THAT [HE] SHOULD NOT HAVE APPLIED FOR A WARRANT. IF SUCH WAS THE CASE, THE OFFICER'S APPLICATION FOR A WARRANT WAS NOT OBJECTIVELY REASONABLE, BECAUSE IT CREATED THE UNNECESSARY DANGER OF AN UNLAWFUL ARREST. 2d, AT 344, 106 S. Ct. 1098 (FOOTNOTE OMITTED). SUBSEQUENTLY, IN *GARDNER V. LIVINGSTON COUNTY*, 878 F.2d 1406, 1408 (11th Cir. 1989), WE APPLIED BRIGGS TO A SITUATION IN WHICH AN OFFICER SOUGHT A WARRANT TO ARREST GARDNER BASED ON AN AFFIDAVIT STATING THAT GARDNER "DID... COMMIT THE OFFENSE OF FALSE REPORT OF A CRIME. THE COURT HELD THAT THE OFFICER HAD VIOLATED THE CONSTITUTION BY SEEKING THE WARRANT, BECAUSE SUCH A CONCLUSORY AFFIDAVIT CLEARLY IS INSUFFICIENT TO ESTABLISH PROBABLE CAUSE. THE AFFIDAVIT CONTAINS NEITHER AFFIRMATION PROVIDING THE BASIS FOR THE AFFIDAVIT'S BELIEF NOR ANY AFFIRMATIVE ALLEGATION THAT THE AFFIDAVIT HAD PERSONAL KNOWLEDGE OF THE CIRCUMSTANCES SURROUNDING THE ALLEGED COMMISSION OF THE CRIME." IN AT 1408-09 (CITATION OMITTED).

OFFICER BEARDER WARENT IS MATERIALLY SIMILAR TO THE ONE WE HELD MATERIALLY UNCONSTITUTIONAL IN *GARDNER*. SHORTLY BEFORE FRANKLIN'S REQUEST, OFFICER BEARDER ARTICULATES A REASON FOR HIS BELIEF THAT FRANKLIN VIOLATED THE LAW AND ANY AFFIRMATIVE ALLEGATION THAT HE HAD PERSONAL KNOWLEDGE OF THE CIRCUMSTANCES FRANKLIN'S ALLEGED CRIME. BUT SEEKING AN ARREST WARRANT ON THE BASIS OF SUCH A CONCLUSORY AFFIDAVIT. OFFICER BEARDER ADMITS TO HAVE VIOLATED A CLEARLY ESTABLISHED CONSTITUTIONAL RIGHT OF FRANKLIN.

OFFICER BEARDER ADMITS TO HAVE VIOLATED A CLEARLY ESTABLISHED CONSTITUTIONAL RIGHT OF FRANKLIN.

Failure to point out the discrepancy between appearance and the description in officer Bradford's arrest warrant affidavit of the burglarly Almar at all state court. That affidavit was part of the state court's case file, which was fully open to defense counsel and the court. Thus, the informant on the officer allegedly "withheld" was not a defense counsel already before the court. It may be that Mr. Franklin's defense counsel neglected to inspect the court records or to draw the court's attention to this evidence.

While probable cause may be made to appear by showing under oath before a magistrate what assurance of the warrant is sought, it is not necessary that the facts be made to appear as showing probable cause to be made. Tobias v. State, 141 S. E. 2d 574 (1965). Coheed v. State, 303 Ark. The Affidavit.

(B) ALLEGED ACTIVE DECEPTION BY OFFICER BRADFORD

Mr. Franklin also argues that the officer actively misled the superior court. In support of this argument, Franklin asserts: (1) officer Bradford provided the magistrate with exculpatory statement or evidence, officer Bradford submitted a facially adequate arrest warrant as which he falsely averred that Mr. Franklin had possession cocaine and marijuana with intent to distribute when he had no evidence to support that averment; (2) officer Bradford lied to the superior court -- or at least recklessly disregarded the truth -- by testifying at Franklin's probable cause hearing that no evidence had been received from the burglarly Almar incident; and (3) that officer Bradford deceived the grand jury that indicted Franklin on the distribution charge.

However, Franklin's allegations that officer Bradford actively deceived the state court merit closer attention. The invited state supreme court has held that qualified immunity does not protect an officer who seeks a warrant where a reasonably well-trained officer... would have known that this affidavit failed to establish probable cause and he should not have applied for the warrant. Muller v. Bellets, 475 U.S. 335, 395, 106 S. Ct. 1092, 1098, 89 L. Ed. 2d 271 (1986). Cf. Stearns, 854 F. 2d at 426 & n. 5 (recognizing that "freedom from malicious prosecution is a federal right protected by § 1983"; Resmit v. Alfred, 318 F. 2d 110 (5th Cir. 1963) (holding officers liable under section 1983 for making an arrest without probable cause), cert. denied, 375 U.S. 475, 84 S. Ct. 489, 11 L. Ed. 2d 420 (1964). See generally Albright 321 F. 3d 1553 v. Diver, - U.S. -, - U.S. 114 S. Ct. 807, 811 S. 5, 127 L. Ed. 2d 119 (1994) (plurality opinion of Rehnquist, C.J.) (collecting federal cases on malicious prosecutions.

ELEMENTS OF A CAUSE OF ACTION FOR "FRAUD" INCLUDE FALSE REPRESENTATION OF A PRESENT OR PAST FACT MADE BY DEFENDANT. ACTION AS RELIANCE THEREUPON BY PLAINTIFF, AND DAMAGE RESULTING THEREFROM FROM SUCH MISREPRESENTATION.

AN INTENTIONAL DEVIATION OF TRUTH FOR THE PURPOSE OF INDUCING ANOTHER TO RELIANCE UPON IT TO PART WITH SOME VALUABLE THING BELONGING TO HIM OR TO SURRENDER A LEGAL RIGHT. A FALSE REPRESENTATION OF A MATTER OF FACT, WHETHER BY WORDS OR BY CONCEALMENT OF THAT WHICH SHOULD HAVE BEEN DISCLOSED, WHICH DECEIVES AND IS INTENDED TO DECEIVE ANOTHER SO THAT HE SHALL ACT UPON IT TO HIS LEGAL DIGNITY. ANYTHING CALLED TO DECEIVE, WHETHER BY A SINGLE ACT OR COMBINATION, OR BY SUPPRESSION OF TRUTH, OR SUGGESTION OF WHAT IS FALSE, WHETHER IT BE BY DIRECT FALSEHOOD OR CONCEALMENT, BY SPEECH OR SILENCE, WORD OF MOUTH, OR LOOK OR GESTURE. A GENERIC TERM, EMPRACING ALL UNLAWFUL MEANS WHICH HUMAN INGENUITY CAN DEVISE, AND WHICH ARE RESORTED TO BY ONE INDIVIDUAL TO GET ADVANTAGE OVER ANOTHER BY FALSE SUGGESTIONS OR BY SUPPRESSION OF TRUTH, AND INCLUDES ALL SURPRISE, TRICK, CUNNING, DISSEMBLING, AND ANY UNLAWFUL WAY BY WHICH ANOTHER IS CHEATED. BAD FAITH AND FRAUD ARE SYNONYMOUS, AND ALSO SYNONYMOUS OF DISHONESTY, INFIDELITY, FALTHLESSNESS, PERFIDY, UNTRUSTWORTHINESS, ETC.

(E) FRAUD

UTILIZATION OF PROCESS TO OBTAIN A PERSON AGAINST WHOM IT IS SUED OUT, EXISTS WHERE PLAINTIFF PROCEEDS MULTITOUSLY AND WITHOUT PROBABLE CAUSE TO EXECUTE OBJECT WHICH HAS UNLAWFUL PURPOSE TO SUBVERT. IT HAS TO DO WITH THE WROUGHTFUL VIOLATION OF SUCH PROCESS. WHILE ABUSE OF CIVIL PROCESS IS CONFINED WITH REVERSAL OF A PROCESS AFTER IT IS ISSUED.

(D) MALICIOUS USE OF PROCESS

MISUSE OR MISAPPLICATION OF PROCESS TO ACCOMPLISH A PURPOSE NOT WARRANTED OR DEMANDABLE BY THE WRIT. THE MALICIOUS REVERSAL OF A REPEALY ISSUED PROCESS, WHEREBY A RESULT NOT HONORABLY OR PROBABLY OBTAINED AND WHICH IS SECURED, NOT INCLUDING CASES WHERE THE PROCESS WAS PROCURED MULTITOUSLY BUT NOT ABUSED OR MISUSED AFTER IT IS SECURED. THE EMPHATIC MEANING OF PROCESS WHERE PROBABLE CAUSE EXISTS BUT WHERE THE SUIT IS TO SECURE OBJECTS OTHER THAN THOSE JUSTIFIED BY LAW. THE COURT REQUIRES A REVERSAL OF COURT PROCESS TO ACCOMPLISH SOME END WHICH THE PROCESS WAS NOT DESIGNED TO ACCOMPLISH, AND DOES NOT REQUIRE A REPEAL USE OF PROCESS, EVEN WITH ULTERIOR MOTIVES.

(C) MALICIOUS ABUSE OF LEGAL PROCESS

WILLFULLY MISAPPLYING COURT PROCESS TO OBTAIN OBJECT NOT JUSTIFIED BY LAW. THE WILLFUL

AS DISTINGUISHED FROM NEGLIGENCE, IT IS ALWAYS POSITIVE, INTENTIONAL. IT COMPRISES ALL ACTS, OMISSIONS, AND CONCEALMENTS INVOLVING A BREACH OF A LEGAL OR EQUITABLE DUTY AND RESULTING IN DAMAGE TO ANOTHER, AND INCLUDES ANYTHING CALCULATED TO DECEIVE, WHETHER IT BE A SINGLE ACT OR COMBINATIONS OF CIRCUMSTANCES, WHETHER THE SUPPRESSION OF TRUTH OR THE SUGGESTION OF WHAT IS FALSE, WHETHER IT BE BY DIRECT FALSEHOOD OR BY ASSUENDO, BY SPEECH OR BY SILENCE, BY WORD OF MOUTH, OR BY LOOK OR GESTURE. FRAUD, AS APPLIED TO CONTRACTS, IS THE CAUSE OF AN ERROR BEARING ON A MATERIAL PART OF THE CONTRACT, CREATED OR CONTINUED BY ARTIFICE, WITH DESIGN TO OBTAIN SOME UNJUST ADVANTAGE TO THE ONE PARTY, OR TO CAUSE AN INCONVENIENCE OR LOSS TO THE OTHER.

(F) WANTON MISCONDUCT

ACT OR FAILURE TO ACT, WHEN THERE IS A DUTY TO ACT, IN RECKLESS DISREGARD OF RIGHTS OF ANOTHER, COUPLED WITH A CONSCIOUSNESS THAT INJURY IS A PROBABLE CONSEQUENCE OF ACT OR OMISSION. TERM REFERS TO INTENTIONAL ACT OF UNREASONABLE CHARACTER PERFORMED IN DISREGARD OF RISK KNOWN TO HIM OR SO OBVIOUS THAT HE MUST BE TAKEN TO HAVE BEEN AWARE OF IT AND SO GREAT AS TO MAKE IT HIGHLY PROBABLE THAT HARM WOULD FOLLOW AND IT IS USUALLY ACCOMPANIED BY CONSCIOUS INDIFFERENCE TO THE CONSEQUENCES.

(G) LACHES

"DOCTRINE OF LACHES" IS BASED UPON MAXIM THAT EQUITY AIDS THE VIGILANT AND NOT THOSE WHO SLUMBER ON THEIR RIGHTS, IT IS DEFINED AS NEGLIGENCE TO ASSERT A RIGHT OR CLAIM WHICH, TAKEN TOGETHER WITH LAPSE OF TIME AND OTHER CIRCUMSTANCES CAUSING PREJUDICE TO ADVERSE PARTY, OPERATES AS BAR IN COURT OF EQUITY. THE NEGLIGENCE FOR AN UNREASONABLE AND UNEXPLAINED LENGTH OF TIME UNDER CIRCUMSTANCES PERMITTING DILIGENCE, TO DO WHAT IN LAW SHOULD HAVE BEEN DONE.

UNREASONABLE OR UNEXPLAINED DELAY IN ASSERTING RIGHT WHICH WORKS DISADVANTAGE TO ANOTHER, KNOWLEDGE, UNREASONABLE DELAY, AND CHANGE OF POSITION ARE ESSENTIAL ELEMENTS. LACHES REQUIRES AN ELEMENT OF ESTOPPEL OR NEGLIGENCE WHICH HAS OPERATED TO PREJUDICE OF DEFENDANT.

(H) MISARRIAGE OF JUSTICE

DECISION OR OUTCOME OF LEGAL PROCEEDING THAT IS PREJUDICIAL OR INCONSISTENT WITH SUBSTANTIAL RIGHTS OF PARTY.

AS USED IN CONSTITUTIONAL STANDARD OF REVERSIBLE ERROR, "MISARRIAGE OF JUSTICE" MEANS A REASONABLE PROBABILITY OF MORE FAVORABLE OUTCOME FOR THE DEFENDANT. A "MISARRIAGE

OF JUSTICE, WARRANTING REVERSAL, SHOULD BE DECLARED ONLY WHEN THE COURT, AFTER EXAMINATION OF ENTIRE CAUSE, INCLUDING THE EVIDENCE, IS OF THE OPINION THAT IT IS REASONABLY PROBABLE THAT A RESULT MORE FAVORABLE TO APPELLING PARTY WOULD HAVE BEEN REACHED IN ABSENCE OF THE ERROR.

MISCARRIAGE OF JUSTICE FROM ERRONEOUS CHARGE TO JURY, UNDER STATUTE DECLARING THAT NO JUDGMENT SHALL BE SET ASIDE OR NEW TRIAL GRANTED ON BASIS OF ERROR WHICH DOES NOT RESULT AS SUCH MISCARRIAGE, RESULTS ONLY WHEN HAS ERRONEOUS CHARGE IS REASONABLY CALCULATED TO CONFUSE OR MISLEAD.

(1) THE INDIVIDUAL INTEREST IN AVOIDING INJUSTICE IS MOST COMPELLING IN THE CONTEXT OF ACTUAL INNOCENCE. INDEED, CONCERN ABOUT THE INJUSTICE THAT RESULT FROM THE CONVICTION OF AN INNOCENT PERSON HAS LONG BEEN AT THE CORE OF OUR CRIMINAL JUSTICE SYSTEM. THAT CONCERN IS REFLECTED. FOR EXAMPLE, IN THE "FUNDAMENTAL VALUE DETERMINATION OF OUR SOCIETY THAT IT IS FAR WORSE TO CONVICT AN INNOCENT MAN THAN TO LET A GUILTY MAN GO FREE". IN RE WINSHIP, 397 U.S. 358, 372, 25 L. ED. 2D 368, 90 S. CT. 1068 (1970) (HARLAN, J., CONCURRING). SEE ALSO T. STARKIE, EVIDENCE 756 (1824) ("THE MAXIM OF THE LAW IS . . . THAT IT IS BETTER THAN NINETY-NINE . . . OFFENDERS SHOULD ESCAPE, THAN THAT ONE INNOCENT MAN SHOULD BE CONDEMNED"). SEE GENERALLY NEWSOM, BEYOND "REASONABLE DOUBT," 68 N.Y.U. L. REV. 979, 980-981 (1993).

THE OVERRIDING IMPORTANCE OF THIS GREATER INDIVIDUAL INTEREST MERITS PROTECTION BY IMPOSING A SOMEWHAT LESS EXACTING STANDARD OF PROOF ON A HABEAS PETITIONER ALLEGING A FUNDAMENTAL MISCARRIAGE OF JUSTICE THAN ON ONE ALLEGING THAT HIS SENTENCE IS TOO SEVERE. AS THE SUPREME COURT HAS NOTED, ". . . A STANDARD OF PROOF REPRESENTS AN ATTEMPT TO INSTRUCT THE FACT FINDER CONCERNING OF FACTUAL CONCLUSIONS FOR A PARTICULAR TYPE OF ADJUDICATION." IN RE WINSHIP, 397 U.S. AT 370. SEE ALSO ADDINGTON V. TEXAS, 441 U.S. 418, 423, 60 L. ED. 2D 323, 99 S. CT. 1804 (1979). THE STANDARD OF PROOF THUS REFLECTS "THE RELATIVE IMPORTANCE ATTACHED TO THE ULTIMATE DECISION." Id.

IT SHOULD BE NOTED THAT ALTHOUGH THE STANDARD FOR PROVING ACTUAL INNOCENCE IN MOST CASES REQUIRES THAT THE DEFENDANT BE ACTUALLY INNOCENT AS OPPOSED TO LEGALLY INNOCENT, THE SUPREME COURT IN SAWYER V. WHITLEY, 505 U.S. 333, 120 L. ED. 2D 269, 112 S. CT. 2514 (1992) MADE IT CLEAR THAT "ACTUAL" INNOCENCE DID NOT MEAN INNOCENCE OF THE CHARGED CRIME. IN THAT CASE THE COURT APPLIED ACTUAL INNOCENCE EXCEPTION ALTHOUGH THE APPELLANT CONCEDED GUILT OF THE UNDERLYING CRIME. SAWYER EXPANDED THE ACTUAL INNOCENCE AS THE SENTENCING CONTEXT FOCUSES ON ELEMENTS THAT RENDER A DEFENDANT ELIGIBLE FOR A PARTICULAR PENALTY.

(2) JURY INSTRUCTIONS

Appellant argue that the jury charge on intent could have been interpreted as a reasonable juror as a mandatory presumption that shifted to appellant a burden of persuasion on the intent element of the offense, and accordingly violated the Fourteenth Amendment due process.

(1) Jury instructions on possession of cocaine with intent to distribute, possession of marijuana with intent to distribute trial created a mandatory presumption which

of marijuana with intent to distribute trial created a mandatory presumption which unconstitutionally shifted to appellant the burden of persuasion on element of intent once the state had proven the predicate facts, and fact that jury was informed that the presumption may be rebutted "did not cure the affirmatively in the charge; (2) general instructions as to the prosecutor's burden and appellant's presumption of innocence did not dissipate the burden and the challenged sentences provide a sufficient corrective; and (3) constitutional

affirmity as jury instruction was not harmless error.

Jury charges instruction on this presumption must comport with the requirements of due process clause. The burden-shifting aspect of jury instructions did not become an issue until the United States Supreme Court announced in 1978 that due process requires the prosecution as a criminal case to prove beyond a reasonable doubt every element of the alleged offense. Walsh v. United States, 437 U.S. 358, 48 S. Ct. 1068, 25 L. Ed. 2d 368 (1978) it was

not until Sandstrom v. Montana, 442 U.S. 510, 99 S. Ct. 2958, 61 L. Ed. 2d 344 (1979),

Walsh County Court v. Allen, 442 U.S. 140, 99 S. Ct. 2213, 60 L. Ed. 2d 777 (1979), that the court cited the "beyond a reasonable doubt" standard as placing constitutional

restriction on burden-shifting jury instruction. Sandstrom v. Montana made it clear that the due process clause of the Fourteenth Amendment prohibits the state from giving jury charges that have the effect of relieving the state of the burden of proof on an essential element of the crime. The full effect of this limitation was not seen until the decision in Francis v. Franklin, 471 U.S. 307, 105 S. Ct. 1965, 85 L. Ed. 2d 344 (1985), was announced

in 1985. In Francis v. Franklin, the court concluded that the jury charge could have been interpreted by a reasonable juror as mandatorily presuming that shifted to the defendant a burden of persuasion of the intent element of the offense, and was, therefore, in violation of due process.

Based upon the authority of Francis v. Hermskin, the presumption of intent has been held to constitute a violation of due process, Francis v. Hermskin, 176 Ga. App. 198, 335 S.E.2d 603 (1985). The court held that the jury charge, but it should be said that presumptions are not burden-shifting simply because they are rebuttable. Kashibon v. State, 298 Ga. 199, 282 S.E.2d 102 (1981); Wilson v. Zant, 299 Ga. 373, 290 S.E.2d 442, cert. denied, 459 U.S. 1092 (1982). The jury instructions must be viewed as a whole, but must be viewed as

The context of the overall charge and from the perspective of the reasonable juror. Cupp v. Mathews, 414 U.S. 141, 146, 94 S.Ct. 396, 38 L.Ed.2d 368 (1973); Patterson v. Austin, 728 F.2d 1389 (11th Cir. 1984). If the instructions as determined to be defective and unconstitutional in nature, it must be examined for harmless error. Conduct v. Johnson, 468 U.S. 73, 105 S.Ct. 969, 79 L.Ed.2d 823 (1983) held that a mandatory conclusive presumption is deemed reversible error unless it is one of those rare situations in which the reviewing court can be considered that a Sandstrom error did not prevail. May v. State as the jury's verdict. Williams v. Kemp, 225 Ga. 380, 338 S.E.2d 669 (1986).

Francis v. Hermskin, 411 U.S. 307, 105 S.Ct. 1965, 2d 344 (1985). The United States Supreme Court considered a charge by a Georgia trial court which stated as follows: The acts of a person of sound mind and discretion are presumed to be the product of a person's will, but the presumption may be rebutted, and, (a) person of sound mind and discretion as presumed to intend the natural and probable consequences of his acts, but the presumption may be rebutted. The United States Supreme Court said, when combined with ~~the~~ immediately preceding mandatory language, the instructions that the presumption may be rebutted "could reasonably be read as telling the jury that it was required to infer intent possession of cocaine to distribute, possession of marijuana with intent to distribute as the natural and probable consequence of the act of committing ~~the~~ theft unless the defendant persuaded the jury that such an inference was unwarranted. The very statement that the presumption may be rebutted could have indicated to a reasonable juror that the defendant bore an affirmative burden of persuasion since the state proved the underlying act giving rise to the presumption." Yates v. Yates, 484 U.S. 211, 108 S.Ct. 534, 98 L.Ed.2d 516 (1988). The conviction was reversed for two reasons, first, the charge as to intent did not provide that the presumption could be rebutted, and a reasonable juror might have understood the intent possession of cocaine with intent

to distribute, possession of marijuana with intent to distribute as the natural and probable consequence of the act of committing ~~the~~ theft unless the defendant persuaded the jury that such an inference was unwarranted. The very statement that the presumption may be rebutted could have indicated to a reasonable juror that the defendant bore an affirmative burden of persuasion since the state proved the underlying act giving rise to the presumption." Yates v. Yates, 484 U.S. 211, 108 S.Ct. 534, 98 L.Ed.2d 516 (1988). The conviction was reversed for two reasons, first, the charge as to intent did not provide that the presumption could be rebutted, and a reasonable juror might have understood the intent possession of cocaine with intent

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to distribute, possession of marijuana with intent to distribute a conclusively presumed." Second, the defendant been in possession of cocaine and marijuana in the course of an burglary alarm at the use car lot, and his only defense was that he should have been found guilty of simply possession of cocaine and marijuana and not possession with intent to distribute. The evidence did not establish conclusively the intent required for a conviction on possession of cocaine with intent to distribute, possession of marijuana with intent to distribute. The Georgia Supreme Court concluded that the second part of the charge was error since "a reasonable juror might have concluded that the defendant was required to disprove the accusation of cocaine with intent to distribute, possession of marijuana with intent to distribute by some quantum of proof, thus impermissibly shifting the burden of proof from the state to the defendant." The court also pointed out that the charge was "phrased in terms of the ultimate issue to be decided, possession of cocaine with intent to distribute, possession of marijuana with intent to distribute," as it fails to specify that the underlying must be intentional and unlawful."

As the surprising opinion of Hudson v. State, 240 Ga. 70, 74 (6), 239 S.E.2d 336 (1977); Willis v. State, 102 Ga. App. 420 (2), 291 S.E.2d 736 (1982), the Georgia Supreme Court approved a charge which stated that "the law presumes every act which is in itself unlawful was criminally intended unless the contrary is made to appear." None of the cases relied upon are squarely on point. The charge may conflict with O.C.G.A. Section 16-2-6 (Ga. Code § 26-605), which states that a person will not be presumed to act criminal intent, and it is contrary to several decisions of the court of appeals. Shield v. State, 126 Ga. App. 544 (2), 191 S.E.2d 448 (1972); Williams v. State, 126 Ga. App. 454, 455 (4), 191 S.E.2d 100 (1972); Trolli v. State, 144 Ga. App. 648, 649 (3), 242 S.E.2d 270 (1978). Also there are serious constitutional problems with the charge.

The Fifth Circuit in its supervisory capacity has strongly condemned a charge which states that unless the evidence in the case leads the jury to a different or contrary conclusion, the jury may draw the inference and find that the accused intended all of the natural and probable consequences of his intentional acts. United States v. Chiantes, 560 F.2d 1244 (5th Cir. 1977) en banc, 22 Cr. L. 2201, and in 1979 in Sandstrom v. Montana, 442 U.S. 510, 513, 99 S.Ct. 2450, 61 L.Ed.2d 39 (1979), 25 Cr. L. 3159, the United States Supreme Court held such a charge was unconstitutional on due process grounds.

"IN LIGHT OF THE INSTRUCTIONS ON INTENT GIVEN IN THIS CASE, A REASONABLE JUROR COULD HAVE THROUGH THAT, ALTHOUGH INTENT MUST BE PROVEN BEYOND A REASONABLE DOUBT. PROOF OF THE BURGLARY ALARM AT THE CAR LOT AND ITS ORDINARY CONSEQUENCE CONSTITUTED PROOF OF INTENT BEYOND A REASONABLE DOUBT UNLESS THE DEFENDANT PERSUADED THE JURY OTHERWISE." SINCE "A REASONABLE JUROR COULD HAVE UNDERSTOOD THE... INSTRUCTION IN THIS CASE AS CREATING A MANDATORY PRESUMPTION THAT SHIFTING TO THE DEFENDANT THE BURDEN OF PERSUASION ON THE CRITICAL ELEMENT OF INTENT, AND BECAUSE THE CHARGE READ A WHOLE DOES NOT EXPLAIN OR CURE THE ERROR... THE JURY CHARGE DOES NOT COMPORT WITH THE REQUIREMENTS OF THE DUE PROCESS CLAUSE.

OCCASIONALLY CERTAIN FACTS CANNOT BE ESTABLISHED THROUGH ANY DIRECT EVIDENCE, BUT ARE NONETHELESS ESSENTIAL ELEMENTS OF THE PROSECUTION'S CASE. IN APPROPRIATE CIRCUMSTANCES THE PROSECUTION MAY SATISFY ITS BURDEN OF PROVING THESE FACTS BY ESTABLISHING THEM INDIRECTLY THROUGH THE USE OF A PRESUMPTION. A PRESUMPTION IS AN EVIDENTIARY DEVICE THAT ENABLES THE TRIER OF FACT TO DETERMINE THE EXISTENCE OF ONE OR MORE BASIC FACTS ALREADY PROVEN BEYOND A REASONABLE DOUBT. COUNTY COURT V. ALLEN, 442 U.S. 140, 156 (1979).

(5) INEFFECTIVE ASSISTANCE OF COUNSEL

APPELLANT IS ENTITLED UNDER THE UNITED STATES AND GEORGIA CONSTITUTIONS OF EFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL. STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S. CT. 2052, 86 L. ED. 2D 674 (1984); SMITH V. PRANCIC, 253 GA. 782, 783-784 (1), 325 S. F. 2D 362 (1985). SEE ALSO CUYLER V. SULLIVAN, 446 U.S. 335, 343 (III), 100 S. CT. 1708, 64 L. ED. 2D 333 (1986) ("UNLESS A DEFENDANT CHARGED WITH A SERIOUS OFFENSE HAS COUNSEL ABLE TO INVOKE THE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS THAT DISTINGUISH OUR SYSTEM OF JUSTICE, A SERIOUS RISK OF INJUSTICE AFFECTS THE TRIAL ITSELF. [CITS.]"). APPELLANT'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL EXTENDS TO A DIRECT APPEAL FROM HIS CRIMINAL CONVICTION. EVITT'S V. LUCEY, 469 U.S. 387 (II)(A), 105 S. CT. 830, 83 L. ED. 2D 821 (1985). BECAUSE APPELLANT WAS FOUND TO LACK THE FINANCIAL RESOURCES TO RETAIN COUNSEL, THE STATE WAS REQUIRED TO PROVIDE COUNSEL FOR HIS TRIAL. THE RIGHT TO COUNSEL IS A ~~FUNDAMENTAL~~ FUNDAMENTAL RIGHT OF CRIMINAL DEFENDANTS: IT ASSURES THE FAIRNESS, AND THUS THE LEGITIMACY, OF OUR ADVERSARY PROCESS. E.G., GIDEON V. WAINWRIGHT, 372 U.S. 335, 83 S. CT. 792, 796, 9 L. ED. 2D 799 (1963). THE ESSENCE OF AN INEFFECTIVE-ASSISTANCE CLAIM IS THAT COUNSEL'S UNPROFESSIONAL ERROR SO UPSET THE TRIAL WAS RENDERED UNFAIR AND THE VERDICT RENDERED SUSPECT. SEE E.G. STRICKLAND V. WASHINGTON, 466 U.S., AT 686, 104 S. CT., AT 2064; UNITED STATES V. CRONIC, 466 U.S. 648, 655-657, 104 S. CT. 2039, 2044-2046, 80 L. ED. 2D 657 (1984). AS ORDER TO PREVAIL, THE DEFENDANT MUST SHOW BOTH THAT COUNSEL'S REPRESENTATION FELT BELOW AN OBJECTIVE STANDARD OF REASONABLENESS,

STRICKLAND, 466 U.S., at 688. 104 S. Ct., at 2064, AND THAT THERE EXISTS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S UNPROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT. id., at 694. 104 S. Ct., at 2068. WHERE DEFENSE COUNSEL'S FAILURE TO LITIGATE A FOURTH AMENDMENT CLAIM COMPETENTLY IS THE PRINCIPAL ALLEGATION OF INEFFECTIVENESS, THE DEFENDANT MUST ALSO PROVE THAT HIS FOURTH AMENDMENT CLAIM IS MERITORIOUS AND THAT THERE IS A REASONABLE PROBABILITY THAT THE VERDICT WOULD HAVE BEEN DIFFERENT ABSENT THE EXCLUDABLE EVIDENCE AND ORDER TO DEMONSTRATE ACTUAL PREJUDICE. THUS, WHILE APPELLANT'S DEFAULTED FOURTH AMENDMENT CLAIM IS ONE ELEMENT OF PROOF OF HIS SIXTH AMENDMENT CLAIM, THE TWO CLAIMS HAVE SEPARATE IDENTITIES AND REFLECT DIFFERENT CONSTITUTIONAL VALUES. EFFECTIVE COUNSEL IS COUNSEL FREE FROM CONFLICTS OF INTEREST. WOOD V. GEORGIA, 450 U.S. 261. 271. 101 S. Ct. 1047. 67 L. Ed. 2d 220 (1981).

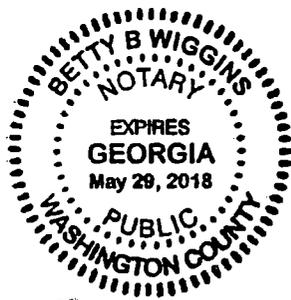
IN CONCLUSION, MR. FRANKLIN RESPECTFULLY REQUESTS THAT THIS COURT OF APPEALS GRANT HIS MOTION TO VACATE VOID CONVICTIONS AND SENTENCE TO CORRECT A MANIFEST INJUSTICE AND BECAUSE HIS DEFENSE COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL. MR. FRANKLIN FURTHER REQUESTS THAT THIS COURT REVIEW THE TRANSCRIPT TO ADDRESS THIS MATTER AND THAT THE PARTIES BE PROVIDED RELIEF.

This The 1 day of July, 2014

RESPECTFULLY SUBMITTED



ELLIOTT JAY FRANKLIN, PRO-SE
GDC# 149083
WASHINGTON STATE PRISON
P.O. BOX 206
DAVISBORO, WA 31018





7.1.14

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the within and foregoing document(s) upon the party(ies) listed below by depositing a copy of same in the United States mail in a properly addressed envelope with adequate postage thereon to below addressee(s).

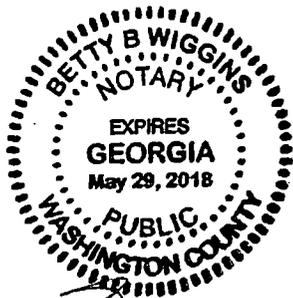
COURT OF APPEALS OF GEORGIA

SUITE 501

47 TRINITY AVENUE

ATLANTA, GEORGIA 30334

This the 11 day of July, 2014



SIGNATURE, *Ellen [Signature]*

[Signature] 7-1-14

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 11, 2014

To: Mr. Jeremy D. Dean, GDC1180575, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your motion did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.**
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

The Georgia Court of Appeal District Attorney ..

Case # 06 - CR - 37

Motion to be granted a out of time Appeal ..

Now comes the defendant, Jeremy Demone Dean. The defendant has respectfully appealed the Berrien County Superior Court, concerning Peas judgement of conviction in the above number. Judgement imposed on October 4, 2006, by trial court after being found not guilty of count one Armed Robbery. But the defendant was found guilty of the lesser included charge of Armed Robbery, leaving the defendant's chances of freedom if 0%. Appeal was denied by Superior Court of Berrien County, Nashville Ga 31639. The defendant did receive a response on the date of May 13th, 2014, of appeal being reviewed and denied, stating no reason for its denial. Defendant was indicted on the term of February of 2006 by Grand Jury of only Armed Robbery, and Poss. of Fire Arm, which the state left to present any direct evidence to support the conviction. Indictment fails to properly charge the necessary element of venue ..

Enumeration of Errors:

Indictment failed to charge the court record of the essential elements of the alleged offense. Indictment showed only two counts, which was only Armed Robbery, and Poss. of Fire arm. State witnesses, did not witness anything, took stand to degrade the defendant's characters by presenting only hearsay. Defendant's counsel waived his right to take stand, with out advising the defendant. Defendant was sentenced according to back ground history, of a stemming theft by taking a small black hand gun, which the defendant had plead guilty, while state had no direct evidence in the term of 2005. The defendant was denied effective counsel, when trial counsel failed to represent him. During the time of incarceration in county jail Berrien County, the defendant was granted 10,000 property bond and was released. Defendant's bond was revoked with no new charges pending, by Judge Dore Perkins. Defendant had no knowledge of having to prepare any defense for the lesser included offense of Armed Robbery, which was a surprise during court. Superior Court Judge made a statement during trial while states witness was on stand motion for out of time appeal showed no reason why appeal was denied, by Judge Perkin during the credibility statement made by the Judge counsel requested a mistrial. And did ask for a vacate of charge motion was denied.

Argument And Citation of Authority.

In this case subjudice, the defendant was tried and convicted on the lesser included of armed robbery (Robbery by Intimidation stemming from a old conviction, and failed to set forth the essential elements of the alleged offense See *Smith V. Hardrick* 261 Ga 54, 55 (1) 464 S.E. 2nd 198 (1995).

Judge Dane Perkins gave his own personal opinion while states witness was giving a testimony against the defendant, with jury present. See O.C.G.A 17-8-57
It is prohibited that any trial judge to state his/hers opinion while in the presence of the jury of what has or has not been proven as the guilt of the accused.
See case *United States V. Hoker* 483 f. 2nd 359 (5th cir 1973.) This error alone is a major reversible error.

See case *O'Hara V. State* 241 G Ga App 855, 859 (3) 528 S.E. 2d 296 (2000).
influenced by judges opinion.

Count one in the indictment 06-CR-27 for the offense of Armed Robbery the state failed to properly charge venue, Pursuant to the O.C.G.A 17-7-54, 17-2-2 (A)
When a specific street or city is not charged rendering the indictment void for not charging whether the alleged crime occurred entirely within the Berrien County grounds.
See *Powers V. State* 309 Ga App, 262, 709 S.E. 2nd 821 (2011).

Our Georgia Constitution requires that the venue in all criminal cases must be laid in the county in which the crime was allegedly committed and the state may establish venue by what ever means of proof are available to it, and it may use both directions, and direct circumstantial evidence. State failed to cure this error during the trial phase. Testimonies did not establish that the alleged crime occurred entirely in Berrien County. Neither evidence nor testimony placed the crime in Berrien County, whatsoever. Trial Transcript October 4, 2006

Testimony of Lucas Tyson Pg 10 Line 1-3 never speaks of Berrien County.
Testimony of Lisa Talley Pg 39 Line 19 Q where she worked, not where the crime was alleged. Testimony of Kyle Coill Pg 47 Line 20-21 Q He has been a resident of Berrien County all his life, never again not mentioning where any witness seen happen, which made them all witnesses for the state.

See Mock v. State 297 Ga App 884, 885, 678 S.E. 2d 545 (2009)
Venue a essential element see: McKinney v. State 294 Ga App 336, 670 S.E. 2d 147 (2008)

Denied effective counsel see Smith v. Hardrick
Venue recognizing error: see Billings v. State 308 Ga App 248, 251, 707 S.E. 2d 117 (2011) Counsel failed to challenge errors in the indictment and trial.
Therefore the defendant moves to seek a reversal, or a vacate for errors of a void judgement, and respectfully seeks as well a out of time appeal.

Certification of Service . . .

Respectfully submitted by:

Jeremy Demone Dean Pro se . . .

I, Jeremy Demone Dean, has hereby certified this motion to the Georgia Appeals

Court of case # 06-CR-37. This certification is evidences that a true copy has

been mailed and received by the follow address and personnel. Georgia Court of Appea

47 Trinity Avenue S.W., Suite 501 Atlanta Ga 30334.

Judge / Clerk / District Attorney of the Georgia Appeal court . . .

Jeremy D. Dean Pro se

Wheeler Correctional Facility P.O.
Box 460 Alamo Ga 30411

Date: _____
Sealed here X



Jeremy Demone
06/24/17

Case number 06-CR-37

Georgia Court of Appeal Clerk

has come: the defendant, Jeremy Demoye Dean. The defendant has respectfully appealed to the Berrien County Superior Court, concerning the per judgment of conviction in the above case number. Judgment imposed on October 4, 2006, by final court after being found not guilty of count one Armed Robbery, Robbery by Intimidation, leaving the defendant's charges of freedom of L.A. Appeal was denied by the superior court of Berrien County, Nashville Ga, 31639. The defendant did give a response on the date of May 13, 2014 at appeal being denied without any reason of why the appeal was denied. The defendant was indicted on the term of February of 2006, by the grand jury of Arm Robbery and Pass of firearm, which the state did not present no such evidence of a direct conviction only hearsay. The state had no way to support the void indictment. Indictment also fails to properly charge the court of the necessary element of venue of where the crime was alleged.

enumeration of Errors:

Indictment failed to charge the court of the essential elements of where the alleged crime took place. Indictment shows only those counts, which was count one Arm Robbery, and Pass of fire arm. It showed no direct evidence to convict the defendant. The defendant was pointed out by a picture line up, while at the police station. The defendant was convicted by hearsay by witness false testimonies. Defendant counsel would have the right to take stand in his behalf. Defendant was convicted according to his past history. The state provided no hard copy to support the conviction. Defendant counsel was ineffective and failed to represent him during trial. Defendant was granted a 10,000 property bond and was released, bond was revoked with no charges, per Judge Perkins trial judge statement during the defendant's final offered credibility towards the states witness testimony while in front of the jury and earlier courts which is all so errors for a waste of sentence, or dismissed of case. Defendant's counsel motioned for a mistrial counsel failed to challenge the error properly. Defendant had no advisement of the lesser charge of Arm Robbery (Robbery by Intimidation) and had no time to prepare defense, which made sure that the defendant would be sentenced, for some how leaving freedom of L.A.

Agreement and Affirmation of Authority

In this case the defendant, was tried, and convicted on the lesser included offense of Arm Robbery, (Robbery by Intimidation) ~~guilty from a case where the defendant read guilty, state had no evidence to support a conviction, and failed to set~~ ~~essential elements of the alleged offense. See Smith v. Hardwick 266 Ga 54, 55 (1) 464 S.E. 2nd 198 (1995)~~ and judge giving credibility towards the states witness while on stand testifying against the defendant, as if he believed that the state witness was trying to tell the truth, while also in front of jury. See United States v. Hober 483 F.2d 359 5th Cir 1973. This error alone is more than a reason to dismiss the entire case, or over turn the sentence, or vacate.

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COURT OF APPEALS OF GA

Count one of indictment De-CR-37 for the offense of Arson Robbery the state failed to properly charge venue pursuant to the O.C.G.A. 17-7-54, 17-7-2(a) when a specified street or city is not charged rendering the indictment void for not charging where the alleged crime occurred entirely with the Berrien county grounds. See Powers V. State 309 Ga App. 262 709 S.E. 2d 821 (2011).

but Georgia Constitution requires that the venue in all crimes cases must be laid in the county in which the crime was alleged committed and the state may establish venue by what ever means of proof are available to it and it may use both direct circumstantial evidence state also failed to cure this error during trial phase; testimony did not establish that the alleged crime occurred in Berrien county neither evidence nor testimony placed the crime in Berrien county; whatsover, Trial Transcript of October 4, 2010, Testimony of Mr Lucas Tison Pg 10 line 1-3 never speaks of Berrien county only naming a street, old coffee highway, testimony happened, testimony of Kyle will Pg 47 line 20-21 Q He has been a resident of Berrien County. His file never mentioning where crime was alleged committed, which means that the defendant was convicted over hearsay. See Moeck V. State 297 Ga App 884, 885, 679 SE 2d (451 2009) Venue a essential element see; McKinney V. State 294 Ga App 356, 670 S. 147 (2008)

the defendant was denied effective counsel see; Smith V. Hardrick venue recognizing the error in the indictment, during trial wherefore the defendant moves to seek a reversal or a retrial for the error presented within a unlawful trial, and seeks a out of time appeal or charges to dismissed.

et Billings V. State 308 Ga App 248, 251, 707 S.E. 2d 117 (2011) counsel failed to challenge error in the indictment, during trial wherefore the defendant moves to seek a reversal or a retrial for the error presented within a unlawful trial, and seeks a out of time appeal or charges to dismissed.

Certification of Service...

Respectfully submitted by:
Jeremy Demone Dean Pro se

I hereby certify this motion to the Georgia Appeal court, in the case # of 06-CR-37. This certification is evidence that a true copy has been mailed and recieved by the following address, and Personnel; Georgia Appeal court 47 Trinity Avenue S.W. suite 501 Atlanta Ga 30334. Judge / Clerk / District Attorney of the Georgia Appeal court.

Jeremy Demone Dean Pro se.
Wheeler Correctional facility P.O. Box
4666 Alamo Ga, 30411

Date: x



Jeremy Demone
07/01/14

Motion To Be Granted A Def Of Time Appeal . .

Now comes the defendant, Jeremy Remore Dean. The defendant has respectfully appealed to the Berrien County Superior Court, concerning the poor judgement of conviction in the above case number. Judgement imposed on October 4, 2006, by that court after being found not guilty of count one Armed Robbery, however the defendant was expressly found guilty of the lesser included charge of Armed Robbery, Robbery by Intimidation, leaving the defendant's chances of freedom at 0%. Appeal was denied by the superior court of Berrien County, Nashville Ga. 8/13/09. The defendant did, receive a response on the date of May 13, 2014 of appeal being denied without any reason, of why the appeal was denied. The defendant was indicted on the term of February of 2006 by the Grand Jury of Armed Robbery, and Poss. of firearm, which the state did not present no such evidence of a direct conviction, only hearsay. The state had no gun to support the void indictment. Indictment also fails to properly charge the court of the necessary element of venue of where the crime was alleged.

Enumeration of Errors:

Indictment failed to charge the court of the essential elements of where the alleged crime took place. Indictment shows only two counts, which counts count one Arm Robbery, and Poss. of fire arm. Indictment was pointed out by a picture line up, while at the police station he defendant was convicted by hearsay, by witnesses false testimonies. Defendant counsel waived his right to take stand in his behalf. Defendant was convicted according to his past history. He small black gun [redacted] he, used in this case, of Arm Robbery, was used as evidence, that somewhat placed defendant counsel was ineffective, and failed to represent him, during trial. Defendant was granted a 10,000 property bond, bond was revoked, with no new charges, only by the request of the trial judge. Trial judge statement during the defendants trial, offered credibility towards states witness testimony, defendant counsel motioned for a mistrial, counsel failed to challenge, the error properly. Defendant had no advancement of the lesser charge of arm robbery (Robbery by Intimidation) and had no me to prepare a defense which left the defendants chance at freedom at 0%. Argument And Citation of Authority

In this case the defendant was tried and convicted on the lesser included of armed robbery (Robbery by Intimidation) stemming from a old conviction, and failed to set forth the essential elements of the alleged offense. Pe Smith V Hardrick 266 Ga 54, 55 (1) 464 S.E. 2nd 198 (1995) Trial Judge Dane Perkins gave his own opinion while states witness was testifying against the defendant that he believed that [redacted] they was trying to tell the truth, while in front of jury showing credibility towards their testimony, which is prohibited. See United States V. Haker 48: 7th 359c 5th Cir 1973. This error alone is more than a reason to have entire case over turned, and vacated, from court. See case O'Hara V. State 241 Ga App 855, 859 (3) 528 S.E. 2d 296 (2000)

7th 359c 5th Cir 1973. This error alone is more than a reason to have entire case over turned, and vacated, from court. See case O'Hara V. State 241 Ga App 855, 859 (3) 528 S.E. 2d 296 (2000)

found one of indictment Cr-R-37 for the offense of Arm Robbery the state failed to properly charge venue pursuant to the O.C.G.A. 17-7-54, 17-2-2(a) when a specified street or city is not charge ending the indictment void for not charging whether the alleged crime occurred entirely within the Berrien County grounds. See Powers v. State 309 Ga App. 262, 701 S.E.2d 821 (2011)

Our Georgia Constitution requires that the venue in all crime cases must be laid in the county in which the crime was alleged committed and the state may establish venue by what ever means of proof are available to it, and it may use both direct circumstantial and evidence. State also failed to cure this error during trial phase. Testimony did not establish that the alleged crime occurred in Berrien County. Neither evidence nor testimony placed the crime in Berrien County, whatsoever. Malinas of October 4, 2006. Testimony of Mr. Lucas Tyson Rd 10 Line 1-3 never speaks of Berrien County, only naming a street, old coffee highway. Testimony Lisa Talley Pa 37 Line 19 & where she state where she worked, not where the alleged crime had taking place. Testimony Kyle Gill Pa 47 Line 20-21 & He has been a resident of Berrien County all his life, never mentioning where crime was alleged committed which means that the defendant was convicted over hear say. See: Mock v. State 297 Ga App 884, 885, 78 S.E.2d 545 (2009) Venue a essential element see: McKinney v. State 294 Ga App 336, 670 S.E.2d 147 (2008)

The defendant was denied effective counsel see: Smith v. ~~State~~ Hardwick venue recognizing the error: See Billings v. State 309 Ga App 248, 251, 707 S.E.2d 117 (2011) Counsel failed to challenge errors in the indictment, wherefore the defendant moves to seek reversal, or a vacate for the errors presented within a untimely trial, and seeks a out of time appeal for charges to be dismissed.

Stacy Jones
5/16/14



Jeremy DeRonne Dean Pro se
Wheeler Correctional Facility P.O. Box
466 Alamo Ga, 30411

I hereby certify this motion to the Georgia Appeal court in the case # of 06-CR-37 This certification is evidence that a true copy has been mailed and received by the following address and Personnel of Georgia Appeal court 47 Trinity Avenue S.W., Suite 501 Atlanta Ga 30334 Judge/Clerk/District Attorney of the Georgia Appeal court.

Respectfully Submitted by:
Jeremy DeRonne Dean Pro se

Certification of Service...



Court of Appeals of Georgia

July 8, 2014

TO: Mr. Roscoe E. Dean, Jr., 612 East Cherry Street, Jesup, Georgia 31546

RE: A14A1972. Roscoe Emory Dean, Jr. v. Mary Drawdy Diaz

REQUEST FOR COPIES

- We received your request for a copy of the Docketing Notice which was mailed to you on June 24, 2014. Copies are \$1.50 per page in this Court. In the future, we will have to charge you at that rate for any copy requests.

Also, even though your letter stated a Certificate of Service was enclosed, there was no Certificate of Service attached.

I have enclosed a copy of the Docketing Notice and the Rules of the Court of Appeals of Georgia for your review.

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

- At your request, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review.

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing.

For Additional information, please go to the Court's website at: www.gaappeals.us



2014

Georgia Court of Appeals

R U L E S

Last Update: May 15, 2014

COURT OF APPEALS OF GEORGIA

47 Trinity Avenue, S.W., Suite 501

Atlanta, Georgia 30334

(404)656-3450

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

NOTICE OF DOCKETING - DIRECT APPEAL

APPEAL CASE NUMBER: A14A1972

DATE OF DOCKETING: June 24, 2014

STYLE: ROSCOE EMORY DEAN, JR. v. MARY DRAWDY DIAZ

IMPORTANT RULE REQUIREMENTS AND INFORMATION

Briefs: Appellant's brief (including an Enumeration of Errors as Part II) shall be filed within 20 days of the date on this docketing notice. **No appellant's brief shall be received for filing without the \$300.00 filing fee or sufficient pauper's affidavit.** Appellee's brief shall be filed within 40 days after the docketing date or 20 days after the filing of the appellant's brief whichever is later.

Requests for extensions of time to file briefs should be made by motion. Failure to timely file briefs or to follow any Court rules or orders may cause the appeal to be dismissed or may cause non-consideration of a brief and may subject the offender to contempt.

Filing by US Postal Mail or Delivery Service: The contents of a properly addressed mailing other than a motion for reconsideration shall be deemed filed on the date of the U.S. Postal Service postmark date if it is stamped on the envelope or container. A filing received from an overnight delivery service is deemed filed on the date shown on the envelope or container. If no date appears on the container or envelope of a mailing or delivery, the contents shall be deemed filed on the date of receipt by the court. **Motions for reconsideration are deemed filed on the date the motion is physically received in the Clerk's office.**

Oral Argument: A Request for Oral Argument shall be filed within 20 days of the date on this docketing notice. If oral argument is requested and granted by this Court, the argument is tentatively scheduled for Oct 15 2014 before the Second Division: P. J., Andrews, J., McFadden, J., Ray. A calendar will be sent to counsel of record confirming the exact date of oral argument. If the calendar has not been received at least ten days prior to the tentative oral argument date, please contact the Clerk's office.

Communications: For information, contact the Clerk's office or visit www.gaappeals.us. There shall be no communications relating to pending appeals to any judge or member of the judge's staff.

RECEIVED IN OFFICE
JUN 23 PM 1:20

RECEIVED IN OFFICE
2014 JUN 31 AM 8:08
CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Honorable Stephen Castien
Clerk Court Administrator
Court of Appeals of Georgia
47 Trinity Avenue [Suite 501]
Atlanta, Georgia 30334

Dear Sir:

Thank you for your letter of May 27, 2014.

At this time there is a case

styled in the Ga. Court of Appeals,
under Mary Draddy Diaz v. Roscoe

Emory Dean, Jr. & IFS, may we
receive the Docketing Notice and

the briefing schedule? Thank you.

Enclosed is a copy of a certificate
of Service for a Plaintiff. It is

stamped it appears on May 29, 2014
but was served on me on June 3,

2014 - several days later although
we live in the same town (plaintiff

and defendant). It was delivered by
the U.S. Postal Service.

- Page 2 -

A growing number of people have heard about this and are upset. One of their reasons is because it appears whoever holds the writ of FIFA could possibly enter your home before appeal courts have time to rule one way or the other. And also a lot of folks do not like to be awakened in the middle of the night, by someone looking for a "needle in a haystack", so to speak.

A number of citizens are also very concerned about freezing ANY BANK ACCOUNTS. Our population of senior citizens has been growing in the last several years. They go to their banks once a month, to get their social security check and nothing more. The social security administration and other government agencies make their deposits directly to the bank for most senior citizens. IF there are any malfunctions of the social security computers at the bank or the bank's computers, watch out!!!

- Page 3 -

Most people are aware that these problems can be solved but it is not going to be easy. It will take several years -- if the social security system lasts that long. IN THE MEANTIME we are going to need some HELP FROM OUR COURTS AND OUR COURT SYSTEMS. We all want to help those who need it with as little loss to the public as possible.
Thank you.

Faithfully
Roxas E. Dean, Jr.
Roxas E. Dean, Jr.
612 E. Cherry St.
Jesup, Ga. 31546

BCV50038

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

July 11, 2014

To: Tammi L. Brown, Esq., Moore Ingram Johnson & Steele, LLP, Emerson Overlook, 326 Roswell Street, Marietta, Georgia 30060

Docket Number: A14I0167 **Style:** **Southeastern Construction & Management, INC. v. Harvey P. Cole, III, et al.**

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. **Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).**
16. **Other: Also, there is no direct appeal docketed as of today's date. The application was granted on May 20, 2014.**

For Additional information, please go to the Court's website at: www.gaappeals.us

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

COA

7/10/14

To: Tammi L. Brown

Docket Number: A14J0167 Style: Southeastern Construction Management, Inc.,
V. Harvey P. Cole, III et al.

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rules 1(c), 30 (e) and 31 (c)
16. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j). *Also, there is no case docketed in our Court.*

For Additional information, please go to the Court's website at: www.gaappeals.us

IN THE COURT OF APPEALS
STATE OF GEORGIA

JUL 09 2014
CLERK'S OFFICE
COURT OF APPEALS OF GEORGIA

SOUTHEASTERN CONSTRUCTION & MANAGEMENT, INC.,

Appellant,

v.

HARVEY P. COLE, III ET AL.

Appellees.

Appeal No. A14I0167

MOTION TO WITHDRAW APPEAL

Alexander T. Galloway III
Georgia Bar No. 283051
Tammi L. Brown
Georgia Bar No. 717717

Moore Ingram Johnson & Steele LLP
Emerson Overlook
326 Roswell Street
Marietta, Georgia 30060
(770) 429-1499 (phone)
(404) 429-8631 (facsimile)

RECEIVED IN OFFICE
2014 JUL -9 PM 3:07
CLERK'S OFFICE
COURT OF APPEALS OF GEORGIA

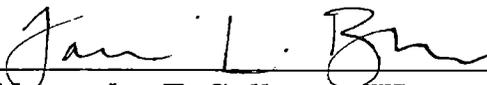
**DEFENDANT SOUTHEAST CONSTRUCTION AND MANAGEMENT,
INC.'S MOTION TO WITHDRAW APPEAL**

COMES NOW SOUTHEASTERN CONSTRUCTION & MANAGEMENT, INC. ("SC&M"), Appellant herein, and pursuant to Rule 41(g), and all other relevant law, files this Motion to Withdraw its Appeal, showing the Court as follows:

Having agreed to a negotiated settlement, including, but not limited to, all parties agreeing to dismiss each and every pending claim with prejudice, SC&M respectfully requests permission to withdraw its Appeal from this Court's consideration.

Respectfully submitted this 9th day of July, 2014.

MOORE INGRAM JOHNSON & STEELE, LLP



Alexander T. Galloway III

Georgia Bar No. 283051

Tammi L. Brown

Georgia Bar No. 717717

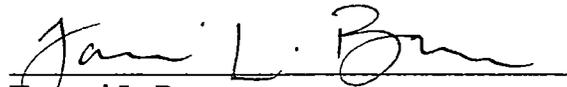
Attorneys for Southeast Construction &
Management, Inc.

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record by depositing a copy of the within and foregoing **MOTION TO WITHDRAW APPEAL** in the United States Mail, in an envelope bearing adequate postage thereon, addressed as follows:

Mr. Michael P. Davis, Esq.
Ms. Jill R. Johnson Esq.
CHAMBERLAIN HRDLICKA WHITE WILLIAMS & MARTIN
191 Peachtree Street NE
34th Floor
Atlanta, Georgia 30303

This 9th day of July, 2014.



Tammi L. Brown
Georgia Bar No. 717717

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 11, 2014

To: Mr. Franklin Lamar Bacon, GDC241510, Wheeler Correctional Facility, Post Office
Box 466, Alamo, Georgia 30411

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____
divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

1711

RECEIVED IN OFFICE
2014 JUL 11 PM 2:55
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

Franklin Lamar Bacon
GDC# 011512 / MD 18 / Aug 1, 201
Whetzel Correctional Facility
185 Broad Street / ROB #66
Milledgeville, Georgia 30411

Location:

I, Franklin Lamar Bacon GDC# 011512 / MD 18 / Aug 1, 201
have been transferred by ongoing rotation for exercising
protected rights. In the above cited orders
and state arguments for extra-jurisdictional computer use
as well as unlimited postage for legal mail,
unlimited postage for legal mail, use of copy
machines etc. use of non-record phone for TDD
needed for above case no/kw/belton.

RE: Notice to Hear / Appeal

Bacon v. State of Ga. Court of App.

CV 13-002
CV 13-001
CV 13-053
CV 11-130

GDC# 011512
MD 18 / Aug 1, 201

Franklin Lamar Bacon
Identification no.:

US District Court / Southern District of Georgia

① ATT ①

~~Franklin Lamar Bacon~~
Respectfully Submitted.

Resident
U.S. Magistrate Mr. B. Obama

of Justice.
Direct App. to show proof of judicial misconduct / obstruction
offered forged. Records are immediately needed for
state case no. have been not only suppressed / illegally
made in this specific matter. Record is the above
States Magistrate to subpoena all records / and request
I Frank's Lamar Bacon Best OJ510 ask / The United
Petitioner/Appellant is the process of Direct App.

RE: Suppression All court records / recordings to be
analyzed by audio / video specialist

App. Doc. 11/11/13
Case No. 83-3036
Case No. 1847CR012
Case No. 1809CR018
Case No. 1893CR169N
Eugene, Oregon District Cir.

Franklin Lamar Bacon
Franklin Lamar Bacon
State

U.S. Magistrate

EMH

~~Franklin Jones & Co~~

I Franklin Jones have been given access to the following information:

Whisper Correctional Facility, 195 Broad Street, Post Office Box 416, Stone Mountain, Georgia 30087, is forwarding a true and correct copy of the above materials to: Notice to Herald/ Hired (ongoing military transfer) (6) Civil Division CV 611-130; CV 612-053; CV 613-001; CV 613-200; Bureau v. State KE; Court of App. etc. to US District Court/Southern Dist. of Ga. Box 1636, Brunswick Ga 31501; Georgia Court of Appeals; 47 Trinity Avenue, One-Suite 501, Atlanta Georgia 30334; District Attorney's Office, 160 North Street 3rd Floor; 5101-000 Ga. 20158; Ms. Teresa Tucker Clerk of Superior Court, 300 Special Street, Judicial Annex Building Statehouse Ga. 30158; (Franklin) Mr. B. Obama, Executive Office of the President, 1600 Massachusetts Avenue, Washington DC. 20503 etc. I will have covered US postage.

Certificate of Service

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 11, 2014

Mr. Michael Lane Brewer
GDC705156
Coffee Correctional Facility
Post Office Box 650
Nicholls, Georgia 31554

RE: A14A0799. Michael L. Brewer v. The State

Dear Mr. Brewer:

I am in receipt of your letter dated July 7, 2014. When the opinion is released in the above appeal, you may want to obtain a copy from your attorney of record. They will be sent copies of the opinion.

Copies in this Court are \$1.50 per page. Your pauper status does not excuse you from the copy fees in this Court and this Court is not subject to the Open Records Act.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

MICHAEL LANE BREWER
GDC#705156
COFFEE CORRECTIONAL FACILITY
P.O. BOX 650
NICHOLLS,GA. 31554

July 7, 2014

Stephen Castlen, Clerk
Court of Appeals for
the State of Georgia
47 Trinity Avenue
Suite 501
Atlanta, GA. 30334

RE: MICHAEL L. BREWER V. THE STATE

A14A 07 99

Dear Clerk:

Please be advised that it has been taking anywhere from two to three weeks for us to receive our Legal Mail. Please send me a copy of the Corrt's Opinion when one is issued. Thank you for informing who my counsels are, however, I need that sent to me directly . Thank you.

Sincerely,

Michael Lane Brewer

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

2014 JUL 11 PM 2:58

RECEIVED IN OFFICE

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

RECEIVED
JUN 24 2014

Date: June 9, 2014

To: Mr. Michael Lane Brewer, GDC705156, Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

Docket Number: A14A0799 **Style:** Brewer v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. **Other: Your case is still pending before the Court. Our docket still reflects your attorneys as James Bonner and Michael Tarleton at GPDSC - Appellate Division.**

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 11, 2014

To: Mr. Robert Alexander, Reg. No. 06204-021, United States Penitentiary, Post Office Box 1000, Marion, Illinois 62959

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____ The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is:
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

FORM 1 - NOTICE OF APPEAL (CIVIL or CRIMINAL CASE)

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

2014 JUL 11 PM 2:59

RECEIVED IN OFFICE

NOTICE OF APPEAL

IN THE _____ (SUPERIOR, STATE, ETC.) COURT
OF CHATHAM COUNTY

STATE OF GEORGIA

PLAINTIFF

ROBERT ALEXANDER

CASE NUMBER

CR79-2928-J1

vs.

DEFENDANT

STATE OF GEORGIA

NOTICE OF APPEAL

Notice is given that Robert Alexander (Plaintiff/Defendant) in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court entered on the 13 day of JUNE, 2014.

The clerk shall _____ (omit nothing from the record on appeal/will omit from the record on appeal the following: _____)

A transcript of evidence and proceedings _____ (will/will not) be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is Out of Time Appeal and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

I certify that I have this day served SUP. CT. CHATHAM CO. (opposing party or attorney) with a copy of this Notice of Appeal by _____ (hand delivery/mailing a copy first class mail postage prepaid) to him/her at: 133 Montgomery St Savannah Ga. 31401 (complete address of party served).

This the 7th day of July, 2014.

[Signature] (Sign your name.)



Court of Appeals of Georgia

July 11, 2014

TO: Mr. Charles B. Allen, GDC1105807 I-2-239T, Washington State Prison, Post Office
Box 2006, Davisboro, Georgia 31018

RE: **A14A1662. Charles B. Allen v. The State**

CHECK RETURN

- Your check number _____ in the amount of _____ written on the account of your firm for the filing fee in _____ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by _____.

CASE STATUS - DISPOSED

- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

CASE STATUS - PENDING

- The above referenced appeal is the only pending appeal in your name before this Court. The appeal was docketed in the September 2014 Term and a decision must be rendered by the Court by the end of the January 2015 Term which ends on March 30, 2015.**

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

IN RESPECT TO THIS COURT I AM WAITING

A RESPONSE TO THE STATE CLAIM TO DISMISS

DEFENDANT DISCRETIONARY APPEAL, I ASK THAT

YOU ALLOW MY APPEAL TO BE HEARD AND IF POSSIBLE

DEFENDANT MOTION TO ADD AND AMEND SERVE AS A

BRIEF AND EXCISE DEFENDANT FROM NOT TIMELY

FILING DUE TO BEING PRO SE, DEFENDANT COMES

BEFORE THIS COURT REQUESTING THE APPEAL TO BE

GRANTED AND REVERSE, DEFENDANT ASK THAT HE

BE REMOVED FROM SEX OFFENDER REGISTRATION

THANK YOU FOR YOUR TIME AND PATIENCE,

RECEIVED IN OFFICE

2014 JUL 10 PM 03 37

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



Court of Appeals of Georgia

July 7, 2014

TO: Mr. Robert Alexander, Reg. No. 06204-021, United States Penitentiary, Post Office Box 1000, Marion, Illinois 62959

RE: **Request for a Copy of the Court Rules**

REQUEST FOR COPIES

- We received your request for copies. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. **The Court of Appeals of Georgia is not subject to the Open Records Act.**

The appellant's Brief contains _____ pages.

The appellee's Brief contains _____ pages.

The opinion contains _____ pages.

Other:

The copies you requested are a total of _____ pages totaling \$ _____.

Please send your check or money order to the following address specifying what copies you wish be sent to you. Your request will be processed and sent to you by return mail.

Court of Appeals of Georgia
47 Trinity Avenue, S.W. • Suite 550
Atlanta, Georgia 30334

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

- At your request, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review.

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing.

June 30, 2014

Court of Appeal of Georgia
47 Trinity Ave SW Ste 501
Atlanta Ga. 30334

RECEIVED IN OFFICE
2014 JUL -3 PM 02
CLERK/REGISTRAR
COURT OF APPEALS OF GA

Dear Clerk:

I'd like to request a packet of the appellate Court rules and procedures for filing a Notice of Appeal from a conviction in your State Court,

Thank you for your time and assistance.

Respectfully,



Robert Alexander # 06204-021
USP
P.O. Box 1000
Marion, IL 62959

Sent Rules
7.7.14

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**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

July 14, 2014

To: Mr. George W. Banks, GDC356711 8LL, Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

Docket Number: **Style: George W. Banks v. The State**

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. **A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)**
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. **There were an insufficient number of copies of your document. Rule 6**
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. **Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6**
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. **Other: Ms. Holly K.O. Sparrow retired as Clerk/Court Administrator in August, 2013. The new clerk of the Court is Stephen E. Castlen.**

For Additional information, please go to the Court's website at: www.gaappeals.us

IN THE COURT OF APPEALS OF GEORGIA

RECEIVED IN OFFICE

2014 JUL 11 PM 2:58

CLERK OF APPEALS OF GA

GEORGE W. BANKS,
Appellant,

vs.

STATE OF GEORGIA,
Appellee.

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*

APPEAL FROM SPALDING
COUNTY SUPERIOR CASE
NO.: 98R-683

COURT OF APPEALS
DOCKET NO.:

APPLICATION FOR DISCRETIONARY APPEAL

Comes now, the above-named Appellant, in the above-styled case and caption, and pursuant to O.C.G.A. § 5-6-35 and Court of Appeals Rule 31, and applies to this honorable court for an instant APPLICATION FOR DISCRETIONARY APPEALS, on the grounds that the lower court committed reversible, and the establishment of a precedent is desirable.

ORDER APPEALED

The Superior Court of Spalding County, the Honorable Judge Christopher C. Edwards, entered an order on June 5, 2014, which is being appealed, denying Appellant's instant APPLICATION FOR DISCRETIONARY APPEAL, filed in the lower courts.

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

1. Appellant was convicted by a Spalding County jury on February 25, 1999, on one count of aggravated child molestation, and was sentenced to (30) thirty-years in confinement, with credit for time served since May 20, 1998.

2. Appellant's conviction was affirmed by the Court of Appeals of Georgia on April 24, 2002.

3. Appellant's conviction was upheld, despite undisputable medical proof that he could not have committed the alleged offense.

4. Appellant's health has not varied during imprisonment, wherein he has never had the sexually communicable disease that the alleged victim had before and after the alleged offense, that alleged victim contacted from another party.

5. Appellant filed his instant MOTION FOR DISCRETIONARY APPEAL and instant MOTION TO AMEND DEFENDANT'S MOTION FOR DISCRETIONARY APPEAL with attached medical testing of defendant's negative tests, on April 19, 2012, and August 14, 2013, respectively with the lower court.

6. Appellant filed his instant MOTION FOR AN ORDER TO BE ISSUED FOR "MOTION FOR DISCRETIONARY APPEAL," on or about May 19, 2014, with the lower court.
7. Subsequently, the Appellant's aforementioned Motions were denied by the trial court on June 5, 2014, and thereby brings forth this instant APPLICATION FOR DISCRETIONARY APPEAL, with this honorable Court of Appeals of Georgia.

II. STATEMENT OF THE ISSUES

1. The lower court committed reversible error(s); and
2. The case is one of first impression and the setting of a precedent is desired.

III. ARGUMENT AND CITATION OF AUTHORITY

The trial court committed reversible error when it failed to review the merits of each issue presented in the Defendant's / Appellant's MOTION FOR DISCRETIONARY APPEAL and MOTION TO AMEND DEFENDANT'S MOTION FOR DISCRETIONARY APPEAL, as the lower court failed to provide its rationale and conclusions of law when the lower court denied the Appellant's meritorious motions with the lower court.

Respectfully Submitted,
Isidore George Bouslog, Jr. - se
1st George W. Banks
GDC # 356711
Coffee Conventional Facility
P.O. Box 658
Nicholls, GA 31554-0658

CONCLUSION
Wherefore, for the aforementioned reasons stated therein
Appellant prays for this honorable court to GRANT this, the
Appellant's instant APPLICATION FOR DISCRETIONARY
APPEAL, and allow a full briefing on this important
matter, and base such decision(s) on the proper application
and conclusions of law.
Executed this 2nd day of July, 2014.

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned has served

a true and correct copy of the Appellant's instant APPELLA-

TION FOR DISCRETIONARY APPEAL, upon the following

parties by placing the same in the United States mail, in

properly addressed envelopes along with adequate post-

age affixed thereon, to wit:

Executed this 2nd day of July, 2017.

TO: Holly K. O. Sparrow, Honorable Clerk
Court of Appeals of Georgia
412 Trinity Avenue, Suite # 501
Atlanta, GA 30334

Respectfully Submitted,

~~1st Sergeant - Bureau, Pro-Se~~
~~1st Sergeant W. Banks~~

GDC # 356211

Corree Correctional Facility
P.O. Box 658
Nicholls, GA 31557-0658

IN THE COURT OF APPEALS OF GEORGIA

GEORGE W. BANKS,
Appellant,

vs.

STATE OF GEORGIA,
Appellee.

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COURT OF APPEALS
DOCKET NO.:

APPEAL FROM SPALDING
COUNTY SUPERIOR CASE
NO. : 988-683

AFFIDAVIT OF POVERTY

I, George W. Banks, the affiant as being the undersigned, first being duly sworn does identify himself as the Appellant in the above-styled case and states upon his oath, that he is an indigent state prisoner in the State of Georgia, and that on account of his poverty he can not pay the costs and fees required of him in this instant action, and prays he will be allowed to proceed in forma pauperis, without having to pay any fees or costs.

Executed this and day of July, 2014.

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 2nd DAY
OF July, 2014.

Notary Public, Coffee County, Georgia
My Commission Expires Dec. 8, 2015

Page 6

Respectfully Submitted,
1st. George W. Banks, Jr.
1st. George W. Banks
GAC# 356711
Coffee Correctional Facility
P.O. Box 650
Nicholls, GA 31554-0650

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 15, 2014

To: Mr. Reginald K. Carson, GDC94782 L1, Macon State Prison, Post Office Box 426,
Oglethorpe, Georgia 31068

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

IN THE COURT OF APPEALS
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA 30334

REGINALD K. CARSON,
PETITIONER
v.

STATE OF GEORGIA,
RESPONDENT'S

CIVIL ACTION FILE NO.
NO. 01-9-2846-52

SUPERIOR COURT OF COBB
COUNTY, GEORGIA

RE: NOTICE OF APPEAL
TRIAL COURT'S RULING

NOTICE OF APPEAL

" JURISDICTION "

15-3-3 CERTAIN CRIMES:

PURSUANT TO ARTICLE VI, SEC. V, PARAGRAPH III OF
THE CONSTITUTION OF THIS STATE, THE COURT OF APPEALS
SHALL HAVE JURISDICTION OF THE TRIAL AND COR-
RECTION OF ERRORS OF LAW IN CASES INVOLVING
THE CRIME OF ARMED ROBBERY, WHEREIN THE
DEATH PENALTY HAS NOT BEEN IMPOSED.

CERTIFICATE OF SERVICE

I CERTIFY THAT I HAVE THIS DAY FILED WITH THE CLERK OF THE COURT OF APPEALS OF GEORGIA, PETITIONER'S NOTICE OF APPEAL OF THE TRIAL JUDGE'S FACTUAL RULING AS ERROR OF LAW AND FACT, AND I HAVE MADE THE ORIGINAL AS WELL AS A MOTION FILED IN THE TRIAL COURT CLERK OF PETITIONER'S NOTICE OF APPEAL AND TO FORWARD THE ENTIRE FULL REMITTUR AND PETITIONER'S COPY OF INDIGENCY, TO THIS COURT TO MAKE WITH HIS FILE ONCE A DOCKET NUMBER HAS BEEN INITIATED, AND I HAVE MADE THEM IN THE UNITED STATES MAIL WITH ADEQUATE POSTAGE AFFIXED THERE-TO:

JOHN PURSLEY ESQ.
ASSISTANT DISTRICT ATTORNEY
70 HAYNES ST.
MARIETTA, GEORGIA 30090

This 9 DAY OF JULY 2014 :

Reginald H. Carson

SDC # 94782

NOTARY Bennie R. Solomon 7/9/14

Bennie R. Solomon
Notary Public
Peach County, State of Georgia
Comm. Expires 07-14-2014

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

REGINALD J. CARSON,
PETITIONER
v.

CRIMINAL ACTION FILE
NO. 01-9-2846-52

STATE OF GEORGIA,
RESPONDENT

NOTICE OF APPEAL COURT'S RULING
JURISDICTION

WHITE v. HORASKY, 191 GA. 462, 463, 12 S.E. 2d 875, 876 (1941); MOORE v. WHEELER, 109 GA. 62, 35 S.E. 116 (1899); WHITE, 531 U.S. 225, 121 S.Ct. 712, 148 L.Ed. 2d 629 (2001); BUNNEL v. BUNDEL, 237 GA. 439, 228 S.E. 2d 830 (1976); LUKE v. BATTLE, 275 GA. 370, 565 S.E. 2d 816 (2002); UPPER v. HAMILTON, 244 GA. 361, 260 S.E. 2d 73 (1979); THE CONSTITUTIONAL CONVENTION; ARTICLE III OF THE CONSTITUTION

STANDARD OF REVIEW

PETITIONER MADE STANDING CHALLENGES IN THE SUPERIOR COURT OF COBB COUNTY, CHALLENGING A VOID JUDGEMENT OF PROCEEDINGS INVOLVING THE INDICEMENT; INEFFECTIVE ASSISTANCE OF TRIAL AND APPELLATE; SUBSTANTIVE RIGHTS ISSUES INVOLVING A FEDERAL CONSTITUTIONAL RIGHT UNDER THE SUPREMACY CLAUSE, THAT

The Record clearly reflect, prior to February 4,

Statement of Facts

of substantial.

He has findings the "mixed" only remaining in a
afforded this court two assessment of the facts, and
law to conduct such an assessment, which carries
57 (1978). Only the trial court is authorized by
23 (1978) More v. State, 241 Ga. 583 (1) 247 S.E.2d
More v. State, 437 U.S. 98 S. Ct. 314, 51 L.Ed.
the court to sit at the "thirteenth hour", see
More v. State, 248 Ga. 437 (2001), which is used
evidence in favor of the findings.
evident though there may appear to be some slight
and strangely against the weight of the evidence
trials in cases where the verdict may be decided
sound discretion in granting or refusing new
O.C.G.A. 5-5-21, a trial judge "may exercise a

was harmful and error.

petitioner's rights were violated, which
to the petition, by failing the substance to which
both occasions to employ a state procedural rule
under the United States Constitution, but elected on
issue of a substantial denial of petitioner's rights
order to address on direct had now the
when. As in this case, the court has had and off.

CARION'S JURY TRIAL. MR. CARION CALLED ATTENTION TO THE COURT AND STATED THAT HE HAD NO KNOWLEDGE OF A SEPARATE LOADING "INVOLVING SKIFFER LUTER, WHICH INVOLVED A SEPARATE INCIDENT IN TWO SEPARATE LOCATIONS IN LOBB COURT ENDED UP IN HIS INDICTMENT, WHICH NOBODY TOLD HIM ABOUT UNTIL NOW.

ARRAIGNMENT

THE PURPOSE OF ARRAIGNMENT IS TO PUT THE DEFENDANT ON NOTICE OF THE CHARGES AGAINST HIM. CLARK-VAN DYKE, 138 GA. APP. 266, 271 (1), 226 S.E.2D 89 (1977), AND GIVE HIM AN OPPORTUNITY TO PLEAD TO THE INDICTMENT. JARVEY-VAN DYKE, 95 GA. 222, 227 (1), 121 S.E. 381 (1894);

MEMORANDUM OF LAW OF FACTS

IN THE INSTANT CASE, WHICH CARION PLEADED THAT HE HAD NOT BEEN ARRAIGNED ON THE ADDITIONAL CHARGES, WHICH HE WAS UNWITTINGLY TRIED AND CONVICTED ALLEGEDLY ON THE RECORD REVEALS THE COURT ADDRESS TRIAL COURT OF THESE FACTS, AND HE ADMITS NOT ADDRESS CHARGES OF THE CARION'S, WHICH THE COURT ACCEPTED AS FACT, AND ASKED MR. CARION DID HE STILL WANT TO PLEA, WHICH HE STATED, YES, MR. CARION. AND TO WAS THE STAR WHO RECEIVED A PLEA. THE TRIAL COURT ON THE NOTICE OF THE ARRAIGNED PLEADED STATED "I NEVER SAW A KNIFE", TO BE USED IN THE COMMITTED OF A CRIME, TO WHICH THE STAR COULD NOT PLEA, THE RECORD SHOWS SKIFFER LUTER, WHO IN COURT 4 STATED, I SAW WITH ARRAIGNED TO BE A SMALL KNIFE, WHICH HE THE DEFENDANT ONLY CLICKED OPEN AND SHOT, BUT NEVER

threatened him. Defense counsel stated "That's only reckless conduct, the Court now - the law allowed the testimony of Mr. LUTER to remain from Count 4, and after the state accomplished what was their intent to get Mr. LUTER'S crucial testimony of a knife needed for the armed robbery charge, look to state supremacy, "LOOK TO SKIPPER LUTER FOR THE FACTS".

FEDERAL MANDATE

"THE JUDGE'S "NOT "OF", BUT MERELY "IN EVERY STATE," AND TO IDENTIFY FEDERAL LAW, AS THE "SUPREME LAW" NOT "OF THE SEVERAL STATES," BUT "OF THE LAND". SEE LIEBMAN + RYAN, SUPRA. 32.1 NO. 1. BY DOING SO, AND BY PROVIDING THAT LOCAL JUDGES "SHALL BE BOUND IN THEIR DECISIONS" BY THIS CONSTITUTION, THE LAWS OF THE UNITED STATES AND ALL TREATIES AS THE SUPREME LAW OF THE LAND", THE CONSTITUTION COMMANDED LOCAL JUDGES TO SERVE THE CRUCIAL NATIONAL FUNCTION OF ASSURING, IN THE COURSE OF RENDERING "DECISIONS", THAT "ANYTHING IN THE CONSTITUTION OR LAWS OF ANY STATES TO THE CONTRARY" OF FEDERAL LAW WOULD NOT BE PERMITTED TO "WITHSTAND" THAT CONFLICT. U.S. CONST. ART. VI, CL. 2. SEE LIEBMAN + RYAN, SUPRA.

THE FRAMERS EXPLICITLY CONFIRMED THIS CLAUSE TO THE IDENTICAL LANGUAGE OF THE SUPREMACY CLAUSE, WITH THE UNDERSTANDING THAT CONGRESS COULD, AND PRESUMPTIVELY WOULD, EMPower EITHER LOWER FEDERAL COURTS OR THE SUPREME COURT (OR BOTH) TO REVIEW THE DECISIONS OF STATE JUDGES AND THEREBY ASSURE THAT THOSE JUDGES HAD abided BY THEIR OBLIGATIONS (1) TO TREAT FEDERAL LAW AS THE "SUPREME LAW OF THE LAND" AND (2) TO annul ALL STATE LAW TO THE CONTRARY". WHICH SHOULD BE APPLIED IN THIS CASE.

CERTIFICATE OF SERVICE

I CERTIFY THAT I HAVE FILED A NOTICE OF APPEAL WITH THE CLERK FOR THE SUPERIOR COURT FOR COBB COUNTY, WITH INSTRUCTIONS IN THIS CERTIFICATE OF SERVICE TO FORWARD THE COMPLETE FULL CASE REMITTANCE OF RECORDS, TRANSCRIPTS, PETITION'S; BRIEF'S; SUPPLEMENTAL; ORDER'S TO THE CLERK OF THE COURT OF APPEALS OF GEORGIA FOR APPEAL PURPOSES, AND HAVE MAILED THE ORIGINAL IN THE UNITED STATE MAIL WITH ADEQUATE POSTAGE AFFIXED THERE TO:

(1) JOHN PURLEY, Esq.
ASSISTANT DISTRICT ATTORNEY
70 HAYNES ST.
MARIETTA, GEORGIA 30090

(2) COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA 30334

THIS 9 DAY OF JULY 2014:

Reginald K. Carson

ODC # 94762

NOTARY Bennie R. Solomon 7/9/14

Bennie R. Solomon
Notary Public
Peach County, State of Georgia
Comm. Expires 07-14-2014

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 1, 2014

To: Mr. Greg Cuppett, GDC17559, Rockdale County Jail, 911 Chambers Drive, Conyers, Georgia 30012

Case Number: Lower Court: County Superior Court

Court of Appeals Case Number and Style:

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name.
A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.
Your Notice of Appeal does not include a proper Certificate of Service.
An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.
An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.
Your appeal was disposed by opinion (order) on. The Court of Appeals divesting this Court of jurisdiction.
Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.
If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.

For Additional information, please go to the Court's website at: www.gaappeals.us

IN THE SUPERIOR COURT OF ROCKDALE COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,
PETITIONER,

v

GREGORY WILLIAM CUPPETT,
DEFENDANT.

CRIMINAL ACTION
No. 2014-CR-1164-M
NOTICE OF APPEAL

RECEIVED IN U.S. COURT OF APPEALS FOR THE 11TH CIR. 2014 JUN 27 PM 2:30

NOTICE OF APPEAL

COMES NOW, GREGORY WILLIAM CUPPETT, THE DEFENDANT HEREBY FILES A NOTICE OF APPEAL TO THE COURT OF APPEALS OF THE STATE OF GEORGIA IN THE ABOVE CRIMINAL ACTION.

THE CLERK, OF THE SUPERIOR COURT OF ROCKDALE COUNTY, RUTH WILSON, SHALL TRANSMIT TO THE CLERK OF THE APPEALS COURT ALL EVIDENCE, PROCEEDINGS AND COMMUNICATIONS WITH THE COURT IN THIS CRIMINAL ACTION. THE COMMUNICATIONS SHALL INCLUDE BUT NOT LIMITED TO ALL WRITTEN AND ORAL/TELEPHONIC CONTACT BETWEEN THE VICTIM MELISSA HENRY AND THE OFFICE OF JUDGE MUMFORD, AS WELL AS WITH THE DISTRICT ATTORNEY'S OFFICE OF ROCKDALE COUNTY. THE CLERK OF THE COURT, IN ACCORDANCE WITH O.C.G.A. 5-6-37, RULE(S) 17, 18(A)(B) AND 19, OF THE COURT OF APPEALS, FOR THE TRIAL COURT, PREPARE AND FORWARD ALL DOCUMENTS/TESTIMONY/EVIDENCE TO THE COURT OF APPEALS WITHIN FIVE (5) DAYS OF THE FILING OF THIS NOTICE OF APPEAL.

THIS COURT OF APPEALS, RATHER THAN THE SUPREME COURT, HAS JURISDICTION OF THIS CASE ON APPEAL IN THIS CRIMINAL MATTER. THE DEFENDANT HAS THE RIGHT TO APPEAL THE TRIAL COURT'S RULING BECAUSE HE WAS UNDER DURESS AT THE TIME. THE

BY:  / 10/10/2014

I HEREBY UNDER THE PROVISIONS OF SECTION 107 OF THE CRIMINAL PROCEDURE CODE, 1973, DO hereby certify that the above mentioned copy is a true and correct copy of the original copy of the document mentioned above.

Copy Court, File

Court of Appeal, Court
47 Trinity Avenue, 5th Suite 501
Atlanta, GA 30334

True Copy of the foregoing letter marked this 24th day of June, 2014.

Court of the Court, Room 10300
Richard County Superior Court
922 Court Street
Corry, GA 30302

Original Copy 3 Copy of the foregoing letter marked this 24th day of June, 2014.

LETTER OF MARK

Respectfully Submitted, Richard County

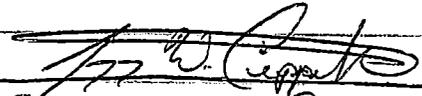
BY: 

June 24th, 2014

DEFENDANT IS ALSO APPEARED THE TRIAL COURT RULES FOR THE FOLLOWING REASONS: INEFFICIENT ASSISTANCE OF COUNSEL, BLOOD DRAW LABORATORY ANALYSIS, RETIRED TESTIMONY OF WITNESSES BY THE STATE BARRED COURT, AS WELL AS MISTAKEN COURT. THE DEFENDANT IS ALSO CHALLENGING THE VALIDITY OF THE GRAND JURY INVESTMENT IN ERM, AS WELL AS THE HOLD/ARREST OF THE GRAND JURY.

A WRIT OF CERTIORARI AGAINST THE DEFENDANT AND TAKE
ALL ACTIONS NECESSARY UNDER THIS EXTRAORDINARY WRIT.

RESPECTFULLY SUBMITTED THIS 23RD DAY OF JUNE, 2014.

BY: 
GREGORY L. CUPPETT

CERTIFICATE OF MAILING

ORIGINAL AND 6 COPIES OF THE FOREGOING WERE MAILED
THIS 23RD DAY OF JUNE, 2014 TO:

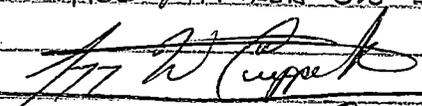
GEORGIA SUPREME COURT, CLERK
244 WASHINGTON ST. SW, ROOM 572
ATLANTA, GA 30334

TRUE COPIES OF THE FOREGOING WERE MAILED THIS 25TH DAY
OF JUNE, 2014 TO:

COURT OF APPEALS, CLERK
47 TRINITY AVENUE, SW, SUITE 501
ATLANTA, GA 30334
(3 COPIES)

GREG CUPPETT, FILE

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BY: 
GREGORY L. CUPPETT

IN THE SUPREME COURT

STATE OF GEORGIA.

GREGORY W. CUPPETT,) CIVIL ACTION CASE NO.
PETITIONER,)
)
V.) PETITION FOR A
) WRIT OF CERTIORARI
RUTH WILSON, CLERK)
ROCKDALE COUNTY COURTS,)
DEFENDANT.)
_____)

COMES NOW, GREGORY W. CUPPETT, THE PETITIONER, WHO RESPECTFULLY REQUESTS THIS HONORABLE SUPREME COURT OF THE STATE OF GEORGIA ACCEPT AND GRANT HIS PETITION FOR A WRIT OF CERTIORARI AGAINST THE DEFENDANT, RUTH WILSON, CLERK OF THE ROCKDALE COUNTY COURTS.

THE PETITIONER BELIEVES THE SUPREME COURT HAS ORIGINAL JURISDICTION IN THIS EXTRAORDINARY MATTER DUE TO THE FACT THE WRIT OF CERTIORARI IS BEING REQUESTED FOR THE CLERK OF THE COURT WITHIN THE STATE OF GEORGIA.

THE PETITIONER ASKS THE SUPREME COURT GRANT HIS PETITION FOR A WRIT OF CERTIORARI FOR THE FOLLOWING REASONS: THE CLERK OF THE COURT HAS ON NUMEROUS OCCASIONS FAILED TO FILE MOTIONS, PETITIONS OR REQUESTS DELIVERED TO THE CLERK IN THE PROPER TIMEFRAME OR HAS LOST THEM ALL TOGETHER AND HAS FAILED TO RETURN CONFORMED COPIES TO THE PETITIONER WHEN RETURNED ENVELOPES ENCLOSED.

THEREFORE, THE PETITIONER RESPECTFULLY REQUESTS THAT THIS HONORABLE SUPREME COURT GRANT HIS PETITION FOR

A WRIT OF CERTIORARI AGAINST THE DEFENDANT AND TAKE
ALL ACTIONS NECESSARY UNDER THIS EXTRAORDINARY WRIT

RESPECTFULLY SUBMITTED THIS 23RD DAY OF JUNE, 2014.

BY: 
GREGORY W. CUPPITT

CERTIFICATE OF MAILING

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BY: 
GREGORY W. CUPPITT

IN THE SUPREME COURT

STATE OF GEORGIA.

GREGORY W. CUPPETT,
PETITIONER,

)

)

)

V.

)

)

RUTH WILSON, Clerk
ROCKDALE COUNTY COURTS,
DEFENDANT.

)

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CIVIL ACTION CASE NO.

PETITION FOR A
WRIT OF CERTIORARI

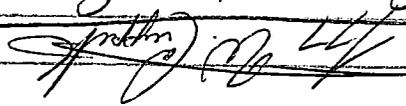
COMES NOW, GREGORY W. CUPPETT, THE PETITIONER, WHO RESPECTFULLY REQUESTS THIS HONORABLE SUPREME COURT OF THE STATE OF GEORGIA ACCEPT AND GRANT HIS PETITION FOR A WRIT OF CERTIORARI AGAINST THE DEFENDANT, RUTH WILSON, CLERK OF THE ROCKDALE COUNTY COURTS.

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THEREFORE, THE PETITIONER RESPECTFULLY REQUESTS THAT THIS HONORABLE SUPREME COURT GRANT HIS PETITION FOR

Secretary to Court

By: 

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Attorney, GN 30334

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25th June, 2014

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244 WASHINGTON ST, SIO, Room 502

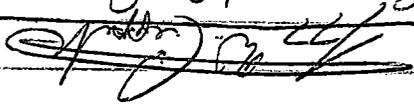
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By: 

RESPECTFULLY SUBMITTED THIS 23RD JUNE 2014

A COPY OF CERTAIN RELEVANT DOCUMENTS AND OTHERS EXTANT AND THAT ALL ACTIONS UNDERSTANDY UNDER THIS EXTANT DOCUMENTS

GREG CUPPETT # 17559
ROCKDALE COUNTY JAIL
911 CHAMBERS DR.
CONYERS, GA 30012

25 JUNE 2014

CLERK OF THE COURT
GEORGIA COURT OF APPEALS
47 TRINITY AVE. SW, STE 501
ATLANTA, GA 30334

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CLERK OF COURT
GEORGIA COURT OF APPEALS

RE: NOTIFICATION / DOCKETING STATUS UPDATE

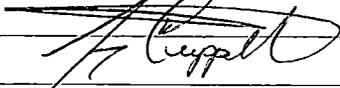
DEAR CLERK OF THE COURT:

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ON A SEPARATE ISSUE CAN YOU PLEASE TELL ME WHEN I SHALL RECEIVE NOTIFICATION OF DOCKETING IN A CIVIL MATTER FROM ROCKDALE COUNTY CASE NO. 2014-CV-1093-M. IT WAS ALLEGEDLY FILED 30 MAY 2014 AND FORWARDED TO THE COURT OF APPEALS, I PRESUME IN THE 5 DAYS AS MANDATED BY GEORGIA STATUTE, BUT AS OF YET NO VERIFICATION FROM THE COURT OF APPEALS AS TO THE DOCKETING.

I LOOK FORWARD TO YOUR RESPONSE AND NOTIFICATION OF STATUS SO THAT I MAY FILE ~~MY~~ INITIAL BRIEF.

SINCERELY,



GREG CUPPETT

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 16, 2014

Mr. Rodriguez Abercombrie
GDC506133 D-2-247
Wilcox State Prison
Post Office Box 397
Abbeville, Georgia 31001

RE: A14A0179. Rodriguez Abercombrie v. The State

Dear Mr. Abercombrie:

Your appeal was disposed by opinion on July 15, 2014. The 13 page opinion is available at a cost of \$19.50. (This Court charges \$1.50 per page copy fees.) The Court of Appeals affirmed the judgment of the trial court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

July 7, 2014

Hello Ms. Stephen

My name is Rodriguez Ribercoombie
RE: A14A0179 Do you know if my case
is still pending? or do you know if
a decision has been made? Thank for
your time.

Sincerely

Rod Ribercoombie

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COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

Date: July 14, 2014

To: Mr. Nathaniel Griggs, GDC284998 F-1-109B, Wilcox State Prison, Post Office Box 397, Abbeville, Georgia 31001

Docket Number: A14A1991 **Style:** Nathaniel Griggs v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **No Certificate of Service accompanied your document(s). Rule 6**
5. Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
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17. The Motion to Supplement has not been granted.
18. Other

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IN THE COURT OF APPEALS FOR THE STATE OF GEORGIA

JUL 09 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA

NATHANIEL GRIGGS,
Appellant-Petitioner,

DOCKETING No. : A14A1941
LOWER COURT CASE No: 00-CR-061

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VS.
THE STATE OF GEORGIA,
Appellee-Respondent.

ON APPEAL FROM THE SUPERIOR COURT
OF CHAMBERLAIN COUNTY

APPELLANT'S ENUMERATION OF ERRORS AND SUPPORTING BRIEF

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MAILING ADDRESS:
NATHANIEL GRIGGS
G.D.# 284998 F-1-10961
WILCOX STATE PRISON
POST OFFICE Box 397
ABBEVILLE, GEORGIA 31001

PREPARED BY:
(S) Nathaniel Griggs
NATHANIEL GRIGGS PRO-SE
G.D.# 284998 F-1-10961

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8	B. STATEMENT OF JURISDICTION
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	CERTIFICATE OF SERVICE

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 SMITH V. HARDBECK 266 GA 541 (1995)
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 MURPHY V. STATE 2013 GA LEXIS 783 (07 2013)
 MISSOURI V. HUNTER 49 U.S. 359 (1833)
 ZONES V. STATE 288 GA 669 (2004)
 JOHNSON V. STATE 287 GA APP 759 (2007)
 HARPER V. STATE 286 GA 216 (2009)
 GRIGGS V. THOMPSON NO: 09-V-110 (10 COUNTY SUP (05-25-2010)
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TABLE OF AUTHORITY

IN THE COURT OF APPEALS FOR THE
STATE OF GEORGIA

NATHANIEL GRIGGS,
Appellant-Petitioner,

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DOCKETING NO.: A14A1991
LOWER COURT CASE NO: 00-CR-061

VS.

THE STATE OF GEORGIA,
Appellee-Respondent.

ON APPEAL FROM THE SUPERIOR
COURT OF CHATTAHOOCHEE COUNTY

APPELLANT'S ENUMERATION OF ERRORS
AND SUPPORTING BRIEF

COME'S NOW! the Appellant NATHANIEL GRIGGS, Pro-Se in the above-styled Criminal Case. Hereby respectfully Submit this Appellant's Enumeration of Errors and Supporting Brief Pursuant to O.C.G.A.S 5-6-40, and in Support thereof the Appellant will show the Court as follows.

PART ONE (1)

A. STATEMENT OF THE CASE

Appellant was indicted by a Chattahoochee County Grand Jury September 25th, 2000, for Count(s) (1) (a) aggravated battery, Count(s) (3) (8) aggravated assault, Count (4) burglary, Count(s) (5) (6) Kidnapping with bodily injury, and Count (7) terroristic threats and acts.

Appellant's trial by jury commenced October 10th, 2000.

YOUR APPEAL ALL PLEADING WILL BE IDENTIFIED FROM THE ORIGINAL TRANSCRIPT
HEREINAFTER REFERRED TO AS "A" AND THE RESPONDING TRANSCRIPT
HEREINAFTER REFERRED TO AS "B"

and supporting briefs are filed from.
do (located in this Court June 27, 2014, Appellant's enumeration of errors
and upon Appellant's timely May 10, 2014, Notice of Appeal. That was
which the Trial Court denied without a hearing April 14, 2014,
a rule nisi - order was filed in the Trial Court's clerk office.
aside void (convictions), sentenced), with supporting brief, and
on March 27, 2014, Appellant's Motion to vacate and set

stayed. (Gr: 95 V. State 314 Ga App 158, (void).

(a), and (b) (5A, 30) which were affirmed on appeal in a case
Court to consecutive twenty (20) year sentences as to counts (1)
on March 04, 2011. Petitioner was resentenced by the Trial
May 25, 2016).

void. SEE Gr: 95 V. Thompson (voided) No: 09-V-110 (Calhoun Super.
partial habeas corpus relief by vacating and declaring counts
A. HALLAM (Mo) (Hereinafter the habeas court). Granted Appellant
following numerous unsuccessful appeals, Superior Court Judge
11, 2003).

in a case stayed Gr: 93 V. The State No: A04A0038 decided December
Appellant's (convictions) and sentenced) were affirmed on appeal

ALL TRANSCRIPTS ON APPELLANT'S FILING HIS NOTICE OF APPEAL (1)
AS TO COUNTS (a) AND (b). (APPELLANT REQUESTED THE CLERK TO SUBMIT
SENTENCING APPELLANT TO LIFE, AND CONSECUTIVE TWENTY (20) YEAR TERMS)
TR. (Hereinafter the trial court) merged count (1) with count (5)
(1)(a), (b), and (5), in which the presiding JUDGE FRANK J. TORRAN
ENDING October 13, 2000, with a verdict of guilty as to count

B. STATEMENT OF THE FACTS

ON March 27th 2014, the Appellant filed with the Trial Court Pleadings of a motion to vacate and set aside Appellant's conviction (Count 1) and (Count 2) and consecutive twenty (20) year sentences, as to Counts ONE (1) and TWO (2) AGGRAVATED BATTERY UPON AND WITHOUT HARM OFFER MS. WRIGHT, And a Rule 11-Order requesting a hearing. In the Statement of Facts of the Supporting Brief, the Appellant demonstrated to the Trial Court that prior to his trial, the Appellant's attorney TIM FLOURNOY (hereinafter Trial Counsel), filed Special and General denures' challenging the sufficiency of the statement (Count 3) ...

ONE

CHARGED APPELLANT WITH AGGRAVATED BATTERY ... CAUSE A PERSON AND WITHOUT BODILY HARM BY RENDERING A MEMBER OF HER BODY; NO LIT. HER LEGS, USELESS BY STRIKING AND TO RIGHT WITH SAID ACCUSED HANDS AND FEET ... AND ...

TWO

CHARGED APPELLANT WITH AGGRAVATED BATTERY ... CAUSE A PERSON AND WITHOUT BODILY HARM BY SERIOUSLY DISTURBING HER BODY BY STRIKING AND MURDER ...

Nevertheless the Trial Court denied same (11.6-29), and UPON APPELLANT'S conviction of (Count 1) (2) aggravated battery UPON MS. LOR: 944, (Count 3) burglary, and (Count 4) kidnapping with bodily injury UPON MS. LOR: 944, the Trial Court merged Count (1) with Count (5). Sentencing Appellant to life and consecutive twenty (20) years as to Counts (2) and (4). (11.6-29, 1187-1189). However, UPON the Hobbes Court vacating and setting aside Count

(5), the Trial Court re-sentenced the Appellant to consecutive twenty (20) year sentences as to counts (1), (2), and (4) (S. 1, 30).

Furthermore, in his Statement of Facts the Appellant demonstrated to the Trial Court that the State's Attorney MARK POST (Hereinafter the State and for Prosecutor), relied on the direct testimony of MS. WRIGHT GARY HUBBARD, ALTHE THOMAS, DR. MARC GOLDMAN, AND STANLEY RICHARDSON, (Hereinafter Hubbard, Thomas, Dr. Goldman, and Richardson).

Whereas, same was that Appellant who formerly dated MS. WRIGHT, went to Hubbard's residence, calling Wright a bit (b) "SLAPPING WRIGHT, SLAMMING WRIGHT ON A COFFEE TABLE, OR/FLOOR, WRIGHT FELT A SHARP PAIN NOT ABLE TO MOVE, APPELLANT THEN PUNCHED OR KICKED WRIGHT, THAT RESULTED IN A SPINAL INJURY". SEE WRIGHT (11, 437-483) DR. GOLDMAN (11 551-564) HUBBARD (11, 632-653) THOMAS (11, 701-708) AND RICHARDSON (11, 739-759). RESULTING IN SAID CONVICTIONS, SENTENCES, AND RE-SENTENCES.

Furthermore, in his Statement of Facts, and Argument and Citation of Authority, the Appellant "NOT ONLY" demonstrated that his conviction and consecutive twenty (20) year sentences upon MS. WRIGHT violate the provision of substantial double jeopardy.

In addition to Appellant demonstrate that Count (2) failed to allege what part of Wright's body was disfigured, [NOR] does said Count (2) state what Appellate allegedly struck MS. WRIGHT with, Never placing Appellant on proper Notice of said charges under due process.

However, in denying relief without a hearing the Trial Court decision was that a Motion to Vacate will not lie in a Criminal Case.

PART TWO (2)

A. ENUMERATION OF ERRORS

GROUND ONE

WHETHER THE LOWER TRIAL COURT ERRED AND MANIFESTED A GROSS ABUSE IN ITS DISCRETION, THAT DENIED APPELLANT'S RIGHTS TO DUE PROCESS UNDER THE (5TH), (6TH), AND (14TH) AMENDMENT TO THE U.S. AND GEORGIA CONSTITUTIONS WHEN TO WIT:

(A).

THE TRIAL COURT FAILED TO CONDUCT A HEARING ON THE APPELLANT'S MOTION TO VACATE AND SET ASIDE CONVICTIONS AND SENTENCES UNDER O.C.G.A. § 17-9-4.

(B).

THE TRIAL COURT DENIED APPELLANT'S MOTION TO VACATE AND SET ASIDE VOID CONVICTIONS AND SENTENCES AS TO COUNTS (1) AND (2)

B. STATEMENT OF JURISDICTION

That the Court of Appeals has subject matter jurisdiction of this appeal pursuant to the Constitution of O.C.G.A. § 5-6-40, AND § 17-9-4, as Appellant challenge the validity of his conviction(s) and sentence(s) to count(s) (1) and (2) aggravated battery that are void on the face of the record.

to conduct a hearing on Appellant's motion to vacate and set that the trial court erred and abused its discretion, by failing to conduct a hearing on Appellant's motion to vacate and set

IN THE CASE-AT-BAR THE APPELLANT "WOULD CONSIDER THE PARTY TO CONSIDER IT... IT". COURT WHEN IT BECOMES MATERIAL TO THE INTEREST OF CAUSE, IS A MERIT MATTER AND MAY BE SO HELD IN ANY THE PERSON OR SUBSTANTIVE MATTER, OR VOID FOR ANY OTHER THE JUDGMENT OF A COURT HAVING NO JURISDICTION OF

holds no relevant part:

are set out in the constitution under O.C.G.A. § 17-9-4, which the remaining standard of review as to Ground One (A) "

STANDARD OF REVIEW

THE TRIAL COURT FAILED TO CONDUCT A HEARING ON APPELLANT'S MOTION TO VACATE AND SET ASIDE VOID CONVICTIONS AND SENTENCES AS TO COUNTS ONE(A) AND TWO(B) ABBREVIATED MATTER (A).

(1983) WHEN TO VIT:

I, SEC. I, PAR I, II, VII, AND XIV, OF THE GEORGIA CONSTITUTION (6TH) AND (14TH) AMENDMENT TO THE U.S. CONSTITUTION AND ART. PROCESS AND EQUAL PROTECTION OF THE LAW UNDER THE (5TH), IN ITS DISCRETION THAT DENIED APPELLANT'S RIGHTS TO DUE WHETHER THE TRIAL COURT ERRED AND MANIFESTED A GROSS ABUSE

GROUND ONE

ARGUMENT AND CITATION OF AUTHORITY

PARA THREE (3)

Void Conviction(s) and Sentence(s) as to Count (1) and (2). IN which Appellant's motion demonstrated to the Trial Court that his conviction, sentence, and re-sentence as to Count (1) and (2) aggravated battery upon a single victim Ms. Wright violate the provision of double jeopardy, as well as Count (2) aggravated battery lacked the essential element of what part of Ms. Wright's body was disfigured, and what Appellant used to disfigure Ms. Wright's body. [SEE ARGUMENT IN MOTION]

Nevertheless, the Trial Court abused its discretion when failing to apply the proper legal standard, procedure, and made a finding of facts that were clearly erroneous. BY STATING IN ITS ORDER TO WILL:

DEFENDANT SEEK TO VACATE THE JUDGMENT OF "CONVICTION" CONTRARY TO THE LONGSTANDING RULE THAT A MOTION TO VACATE A JUDGMENT WILL NOT LIE IN A CRIMINAL CASE [CITING] JOHNSON V. STATE 287 GA APP 759 (2007) AND WRIGHT V. STATE 277 GA 810 (2004). [SEE ORDER OF THE COURT].

HOWEVER, SUCH PRINCIPLES OF LAW IS INAPPLICABLE TO THE APPELLANT'S PLEADINGS. FOR INSTANCE, JOHNSON CASE CONSISTED OF MULTIPLE MOTIONS, and in Case No: A07A2178 JOHNSON CONTENTIONS WERE THAT THE JUDGMENT OF HIS CONVICTION WAS VOID AND THEREFORE ANY SENTENCE IMPOSED PURSUANT TO THE JUDGMENT WAS ILLEGAL. IN DENYING RELIEF THIS COURT HELD HE DOES NOT CONTEND THAT THE SENTENCE IMPOSED WELL ILLEGAL [OR] VOID BECAUSE THE WERE OUTSIDE THE ALLOWABLE RANGE OF STATUTORY PUNISHMENT [CITING] CRUMBLEY V. STATE 261 GA 610 (1991) AND JONES V. STATE 278 GA 669 (2004).

Like Wright filed an extraordinary motion to MODIFY Void Sentence, contending his Malice Murder Conviction was Void due to the indictment never establishing venue in which he pled guilty. In denying relief the Georgia Supreme Court held that a motion to vacate a judgment will not lie in a criminal case.

Whereas, in his supporting "BRIEF TO THE TRIAL COURT" not only did the Appellant "GREGG" show his motion to vacate and set aside void conviction(s) and sentence(s) under count(s) (1) and (2) qualify for the provision of O.C.G.A. 17-9-4, because the same allege a ground that THE SENTENCES WERE BASED ON VOID CONVICTIONS AND THUS WERE ILLEGAL SEE Moore v. State 2013 Ga. lex 13 783 decided (October 2013) Jones v. State 282 Ga 568 (2007) and Collins v. State 277 Ga 586 (2004).

Appellant "GREGG" went on to show the "TRIAL COURT" in his BRIEF "O.C.G.A. 16-1-7(a) holding a defendant may not be retried convicted of a crime that is included as a matter of law or facts in another crime for which the defendant stands convicted. A conviction that merged with another crime is "VOID-A NULLITY" AND A SENTENCE SUCH AS APPELLANT'S CONSECUTIVE (TWENTY (20) YEARS FOR COUNT(S) (1) AND (2) AGGRAVATED BATTERY UPON MS. WRIGHT" BASED ON THE COUNT (1) AND (2) CONVICTIONS were illegal and will be vacated. SEE Moore v. State supra. See also Nazario v. State 293 Ga 480 (2013).

More importantly, "TEN (10) YEARS" after Appellant's conviction and sentence in (October of 2000). The State filed with the TRIAL COURT A MOTION TO CORRECT VOID SENTENCE JUNE 24TH, 2010.

[SEE APPELLANT'S EXHIBIT NO. (A) ATTACHED].

Whereas, in its discretion the Trial Court conducted a March 04th, 2011, hearing, and re-sentenced the Appellant to consecutive Twenty Years ON NOT ONLY COUNT ONE (1) AGGRAVATED BATTERY UPON MS. WRIGHT, BUT RE-SENTENCED THE APPELLANT TO CONSECUTIVE TWENTY (20) YEARS AS TO COUNT TWO (2) AGGRAVATED BATTERY UPON MS. WRIGHT AND COUNT FOUR (4) BURGLARY. [S. 1. 30]⁽²⁾

Nevertheless, Surely the Trial Court committed Plain error and abused its discretion by NEVER conducting a hearing on Appellant's motion as shown above. The Appellant's Pleading demonstrate his sentence(s) are absolutely void, illegal, and unconstitutional that required a hearing. As this Court upheld said re-sentencing and convictions by affirming same in Griggs v. State No: A111878 Court of Appeals of Georgia decided (February 16th 2012) respectfully.

Moreover, the Trial Court knew or should have known its Not the TITLE OF THE PLEADING, ITS THE CONTENTS THEREOF. A Challenge to a void sentence presupposes that the Trial Court was authorized to sentence the defendant, BUT the sentence imposed was not allowed by law. SEE Ruoney v. State 287 Ga 1 (2010). [ATTACK ON SENTENCE AS UNLAWFULLY] Thompson v. State 294 Ga App 768 (2008) [CHALLENGE OF ENHANCED PUNISHMENT UNDER A RETRIBUTIVIST STATUTE].

Thus a sentencing court retains jurisdiction to correct a void sentence at any time. Williams v. State 271 Ga 686 (1999). Chester v. State 284 Ga 162 (2008) overruled on other grounds See Harper v. State

(2) [SEE STATE V. GRIGGS SUP COURT (HAMMAMOO CHEE COUNTY NO: 00-CR-061 HEARING DATE MARCH 04th 2011)]

286 Ga 216 (2009), and Crumbley v. State supra. Warranting this honorable court vacating and setting aside the trial court order respectfully.

(B).

THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO VACATE AND SET ASIDE VOID CONVICTIONS AND SENTENCES AS TO GUNB (A) AND (B) AGGRAVATED BATTERY UPON A SINGLE VICTIM MS. WRIGHT

STANDARD OF REVIEW

The prevailing standard of review as to "GROUND ONE (B)" are set out in the constitution under D.C.G.A. § 16-1-7(c) which held in relevant part:

WHEN THE SAME CONDUCT OF AN ACCUSED MAY ESTABLISH THE COMMISSION OF MORE THAN ONE CRIME, THE ACCUSED MAY BE PROSECUTED FOR EACH CRIME. HE MAY NOT HOWEVER BE CONVICTED OF MORE THAN ONE CRIME IF:

1. ONE CRIME IS INCLUDED IN THE OTHER; OR
2. THE CRIMES DIFFER ONLY IN THAT ONE IS DEFINED TO PROHIBIT A DESIGNATED KIND OF CONDUCT, GENERALLY AND THE OTHER TO PROHIBIT A SPECIFIC INSTANCE OF SUCH CONDUCT.

MOREOVER, WHEN THE GOVERNMENT SEEK TO PROVE THAT A SINGLE ACT OR OCCURRENCE RESULTED IN MULTIPLE VIOLATIONS OF THE SAME STATUTE, "AS HERE," THE RULE OF LENITY REQUIRES ONLY ONE PUNISHMENT UNLESS LEGISLATIVE INTENT TO IMPOSE MULTIPLE PUNISHMENT IS SHOWN. SEE D.C.G.A. § 16-1-7(c), McKell 286 Ga

VOID SENTENCE (TEN (10) YEARS AFTER APPELLANT'S CONVICTION." [SEE APPELLANT'S EXHIBIT NO. (A)].

Moreover, the Trial Court KNEW or SHOULD have KNOWN the Appellant's grounds for relief were based on void convictions, and thus were illegal even if entered by a guilty plea. SEE Moore v. State SUPRA, JONES v. State SUPRA Collins v. State SUPRA and O.C.G.A. § 16-1-7(a).

Furthermore, in his pleading the Appellant demonstrated to the Trial Court that the "RULE OF LENITY" is applicable in the Appellant's case. Legislature intended to impose NO SUCH MULTIPLE PUNISHMENT OF CONSECUTIVE twenty (20) YEARS UPON APPELLANT FOR COUNT (1) aggravated battery UPON MS. WRIGHT BY rendering her less USELESS BY STRIKING MS. WRIGHT WITH SAID HANDS AND FEET.

IN addition to a CONSECUTIVE twenty (20) YEARS UPON APPELLANT FOR COUNT (2) aggravated battery UPON MS. WRIGHT BY "A NO KNOWN DISFIGURATION OF WRIGHT'S BODY" AND A NO KNOWN STRIKING UPON MS. WRIGHT. Thus the Appellant was twice placed in jeopardy for the same offense, and NEVER GIVEN proper notice of said Count two (2). AS APPELLANT relied ON O.C.G.A. § 16-1-6 and 16-1-7(a) State v. Burgess 263 Ga 143 (1993) [THE ACTUAL EVIDENCE HERE], Blackburnes v. U.S. 289 U.S. 299 (1932) [REQUIRED PROOF OF DIFFERENT ELEMENT] Missouri v. Hunter 459 U.S. 359 (1983) [LEGISLATIVE INTENT ON CUMULATIVE PUNISHMENT] and North Carolina v. Pearce 395 U.S. 711 (1969) [DOUBLE JEOPARDY GUARANTEE].

Likewise, as to the lack of essential element of the indictment the Appellant relied ON this Court holding in

Fleming v. State 278 Ga App 491 (2005) Fleming v. State 291 Ga App 787 (2008) and Smith v. Hendrick 266 Ga 541 (1995) [BOTH REVERSED DUE TO LACK OF ESSENTIAL ELEMENTS].

More importantly, the Appellant demonstrated the Trial Court listened to the testimony of MS. WRIGHT (11,437), Dr. Goldman (11,551), Hubbard (11,632) Thomas (11,701) and Richardson (11,739). Resulting in said conviction(s), sentence(s), and re-sentence(s), which the Trial Court knew merged as a matter of fact and law, under O.C.G.A.S 16-1-7(a).

Whereas, surely this Court should vacate and set aside the Trial Court order denying Appellant's motion, and remand said case to the Trial Court respectfully.

CONCLUSION

WHEREFORE, all the aforementioned reasons the Appellant concludes and prays that this HONORABLE Court issue an order to wit:

- 1). Grant Appellant's appeal in Appellant's favor;
- 2). Vacate and set aside the Trial Court's order, and remand said case to the Trial Court with instruction to vacate and set aside Appellant's unlawful conviction(s), sentence(s) and re-sentences as to count(s) (1) and (2) aggravated battery upon Ms. Wright.
- 3). Grant other and further relief that this Court deems just and appropriate. This the Appellant will forever pray this
09th day of July 2014

15/ Nathaniel Greggs
NATHANIEL GREGGS
Ga. Ct. 284498 F-1-109(b)

IN THE SUPERIOR COURT OF CHATTAHOOCHEE COUNTY

STATE OF GEORGIA

State of Georgia,

§

v.

00-CR-061

Nathaniel Griggs,

§

Defendant.

§

MOTION TO CORRECT A VOID SENTENCE

COMES NOW, the State, and prays the Court will correct a void sentence in the above-styled case and shows the following:

1. The Court originally sentenced Defendant on October 13, 2000, including Count One, Aggravated Battery.
2. Count One, Aggravated Battery, was merged with Count Five, Kidnapping with Bodily Injury, for purposes of sentencing.
3. As a result of a Habeas petition initiated by Defendant, the conviction and sentence of Count Five, Kidnapping with Bodily Injury, has been vacated and declared void by an Order dated May 25, 2010.
4. The vacating and voiding the sentence of Count Five, Kidnapping with Bodily Injury, means that the sentence for Count One, Aggravated Battery is now void, as it does not have a valid sentence of imprisonment for a period of one (1) to twenty (20) years.
5. This Court may resentence Defendant at any time when a sentence is void. See Crumbley v. State, 261 Ga. 610, 611 (1991).

APPELLANT'S EXHIBIT No: (A)

Wherefore, the State prays that this Court will hold a hearing for the purposes of entering a valid sentence for Count One, Aggravated Battery.

This the 24th day of June, 2010.



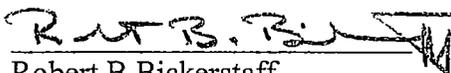
Robert B Bickerstaff
Assistant District Attorney
Chattahoochee Judicial Circuit
Ga. Bar No. 056725

Post Office Box 1340
Columbus, GA 31902-1340

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Motion upon Nathaniel Griggs, by hand delivery or by depositing said copy, with sufficient postage affixed thereon, in the United States Postal Office mail.

This the 24th day of June, 2010.



Robert B Bickerstaff
Assistant District Attorney
Chattahoochee Judicial Circuit
Ga. Bar No. 056725

Post Office Box 1340
Columbus, GA 31902-1340

MICHAEL GRIGGS PRO-SE

I am yours truly

JULY 2014

IN SUM THANK YOU FOR YOUR TIME, EFFORT, AND CONCERN
AND SUBMIT TO ME NOTIFICATION SAME WAS RECEIVED.

WHEREAS, IF SAME HAS YOUR APPROVAL PLEASE FILE SAME

1) ATTACHED REQUEST TO PROCEED IN FORMA PAPERES.

2) ENUMERATION OF ERROR AND SUPPORTING BRIEF... AND

Pleadings Namely to wit:

ENCLOSED PLEASE FIND "ONE (1) ORIGINAL COPY" OF MY

Dear Clerk

RE: GRIGGS V. STATE DOCKET NO: A141991

ALBANY, GEORGIA 30334

47 TRINITY AVENUE, SW, SUITE 501

COURT OF APPEALS OF GEORGIA

OFFICE OF THE CLERK

JULY 09, 2014

ABBEVILLE, GEORGIA 31001

Post Office Box 397

WILCOX STATE PRISON

GA. C. # 284998 (4/10/14)

MR. MICHAEL GRIGGS

RECEIVED IN OFFICE

2014 JUL 14 AM 11:03

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5708 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637

1966 - 1967

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M. Katherine Durant
Attorney at Law

4426 Hugh Howell Road
Suite B-336
Tucker, GA 30084
Phone (404) 841-8412
Fax (404) 492-7158
katherine@durantlawllc.com
www.katherinedurant.com

Durant Law LLC
Appellate and Motion Practice

July 16, 2014

Mr. Stephen E. Castlen
Clerk, Court of Appeals of Georgia
Court of Appeals of Georgia
47 Trinity Avenue S.W., Suite 501
Atlanta, GA 30334

**Re: *Lester v. Butler, Commissioner of GDOL*, Court of Appeals of
Georgia Case No. A14A2008 - Check for Pro Hac Vice Request for
Todd R. McFarland**

Dear Mr. Caslen:

As you requested, I am enclosing my firm's check for \$200.00 for payment for filing the pro hac vice request on behalf of Mr. Todd R. McFarland.

Please feel free to contact me should you have questions.

Sincerely yours,



M. Katherine Durant

cc: Todd R. McFarland
James Rollins

001579

DURANT LAW LLC
M. Katherine Durant
4426 Hugh Howell Rd Ste B-336
Tucker, GA 30084
(404) 841-8412

Wells Fargo Bank
64-22/010
Atlanta, GA

7/16/2014

PAY TO THE
ORDER OF

Court of Appeals of Georgia

**200.00

Two Hundred and 00/100

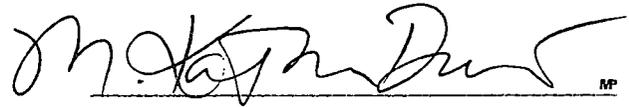
DOLLARS

Court of Appeals of Georgia

VOID

FOR

Lester v. GDOL pro hac vice IOLTA fee



⑈001579⑈ ⑆061000227⑆ 2000048164634⑈

THIS DOCUMENT CONTAINS A COLORED BACKGROUND ON WHITE PAPER. MICROPRINT IS LOCATED BELOW THIS WARNING BAND.

DURANT LAW LLC/M. Katherine Durant

Court of Appeals of Georgia

Lester v. GDOL Filing Fee

7/16/2014

001579
200.00

Durant Law LLC

Lester v. GDOL pro hac vice IOLTA fee

200.00

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 30, 2014

Mr. Sylvester Grace
GDC 699787
Jenkins Correctional Facility
3404 Kent Farm Drive
Millen, Georgia 30442-3442

RE: Lower Case Numbers: 10-CR-179

Dear Mr. Grace:

We are returning your Notice of Appeal to you as all Notices of Appeal must be filed in the trial court, not the Court of Appeals. Presently there is not case docketed in our Court with the name "Sylvester Grace" associated with it. It appears that no Notice of Appeal has been filed with the trial court.

If you want information about the appellate process, please see the Citizen's Guide to Appeals on our web site at www.gaappeals.us.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/br
Enclosure

Steve Castlen - Sylvester Grace Letter

From: Steve Castlen
To: Benita Roberts
Subject: Sylvester Grace Letter

Emailed

Mr. Grace,

We are returning your Notice of Appeal to you as all Notices of Appeal must be filed in the trial court, not the Court of Appeals. Presently there is not case docketed in our Court with the name "Sylvester Grace" associated with it. It appears that no Notice of Appeal has been filed with the trial court.

If you want information about the appellate process, please see the Citizen's Guide to Appeals on our web site at www.gaappeals.us.

IN THE SUPERIOR COURT OF Fulton
STATE OF GEORGIA

RECEIVED IN OFFICE
COURT OF APPEALS
2014 JUL 29 PM 2:54

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

APPELLANT,
Sylvester Grace

v.

APPELLEE,

CASE NUMBER: 10-CA-179

§
§
§
§
§
§
§

NOTICE OF APPEAL

Nothing here
with NT's name
or L/C case #.

Notice is given that Sylvester Grace is
appeals to the Court of Appeals of Georgia from the judgment
the 24th day of July 2014.

l on

Anta

The clerk will omit nothing from the record on appeal.

A transcript of evidence and proceedings will be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court of Georgia, has jurisdiction of this appeal because the issue(s) involved and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

I hereby certify that this day a true and correct copy of this Notice of Appeal has been served upon the parties listed below by (hand delivery) placing a copy of same in the U.S. mail with proper postage affixed, addressed upon:

Georgia Court of Appeals
Clara B. O'Fallon
339 State Judicial Building
Atlanta, Georgia, 30334

Sylvester Grace #699787
3404 Kent Farm Rd.
Milton, Georgia
30442

This the 24th day of July 2014.

Sylvester Grace # 699787
3404 Kent Farm Drive
Milledgeville, Georgia
30442

7.24-2014

RECEIVED IN OFFICE
2014 JUL 29 PM 2:54
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Dear Clerk of court, I am filing
this appeal Pro-se. Could you send
any forms or information I could file
this appeal. Thanks

Sylvester Grace
Sylvester Grace

P.S

I file to the courts
clerk in the county on
which I caught this
charge, for all documents
and transcripts. They wasn't
sent to me. I don't know
~~would~~ these records would be
held in this county. If so
could you send them to me.
Case # 10-CR-179

7-29-2014

RECEIVED IN OFFICE
2014 JUL 29 PM 2:54
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

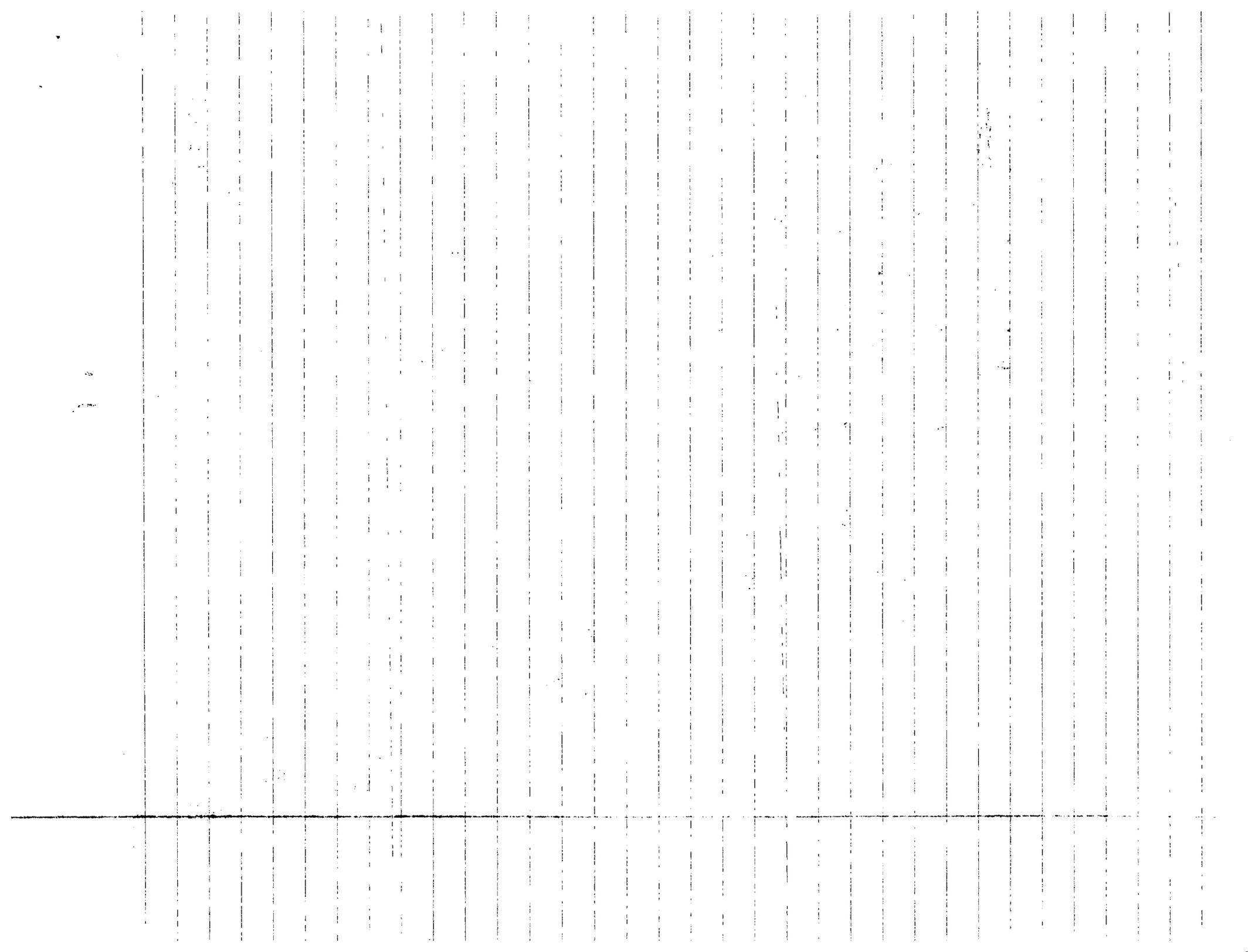
Sylvester Grace #69287
3404 Kent Farm Drive
Milledgeville, Georgia
30442

Dear Clerk of Court, I am filing
this appeal pro-se. Could you send file
any forms are information I could file
this appeal. Thanks

Sylvester Grace
Sylvester Grace

P.S

I file to the courts
Clerk in the county on
which I caught this
change for all documents
and transcripts. They court
sent to me. I don't know
would these records could be
held in this county. If so
could you send them to me.
Case # 10-CR-179



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 16, 2014

To: Ms. Pamela Delores Green, GDC29695 E-4, Pulaski State Prison, Post Office Box 839,
Hawkinsville, Georgia 31036

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

There is no current case pending in the Court of Appeals under your name.

Your Discretionary Application, A14D0124. Pamela D. Green v. The State, was dismissed on December 15, 2013.

The Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.

Your Notice of Appeal did not include a Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.

An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.

An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.

Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ . The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.

Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is:

If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

IN THE SUPERIOR COURT OF Emanuel COUNTY
STATE OF GEORGIA

Pamela D. Green,
Appellant,

v.

State of Georgia,
Appellee,

Case No. 08 CR-83

NOTICE OF APPEAL

Notice is hereby given that Pamela Delores Green the
above named Appellant, Appeals to the Georgia Court of Appeals,
from the denial of his/her Pro Se EXTRAORDINARY Motion For New Trial
(Case No. 08-CR-83), said judgment was entered by the court on the 18th day
of June 2014.

Appellant has a right to a Discretionary appeal from the adverse
(Direct/Discretionary)
ruling pursuant to O.C.G.A. § 5-6-4.

The clerk will please transmit the entire record "omitting nothing" to the
Georgia APPEALS Court, which has jurisdiction of the case pursuant to
the constitution of Georgia 1983 Art. 1 §, Sec. 1, Par. 11XV.

Submitted this 30 day of June, 2014.

Pamela Delores Green
Appellant (Pro Se)

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

Pamela Delores Green,
Appellant

vs.
State of Georgia,
Appellant,

Case No. : 08-CR-83
Emanuel County Superior Court
Case No. : _____
Court of Appeals of Georgia

REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Comes Now, Pamela Delores Green, the Appellant herein, and files this Request for Leave to Proceed In Forma Pauperis. The affidavit in support of this motion, is incorporated herein to show this Court that the Appellant is indigent without sufficient funds to pay the fees and costs for her Application for leave to file Discretionary Appeal.

This 9 day of July, 2014.

Respectfully Submitted,
Pamela Green
Pamela Delores Green
Appellant, Pro Se

[Signature]
July 9, 2014

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

Pamela Delores Green,
Appellant,

VS.

State of Georgia,
Appellee,

} Case No.: 08-CR-83
} Emanuel County Superior Court
} Case No.: _____
} Court of Appeals of Georgia

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

Comes Now, Pamela Delores Green, the Appellant herein, and states that she is incarcerated and indigent without sufficient funds to pay the fees and costs required for her Application for Leave to File Discretionary Appeal. This affidavit is pursuant to O.C.G.A. § 5-6-4.

Under penalty of perjury, this statement is true and correct as affirmed.

Executed on July 9th, 2014

Sworn to and subscribed
before me this 9th day
of July, 2014

Pamela Green
Pamela Delores Green
Appellant, Pro Se

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 15, 2014

To: Mr. James M. Ferris-Valentine, GDC100129154, Georgia Diagnostic and Classification Center, State Prison, Post Office Box 3877, Jackson, Georgia 30233

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney or the trial court clerk.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ . The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

FORM 1 - NOTICE OF APPEAL (CIVIL or CRIMINAL CASE)

NOTICE OF APPEAL

IN THE Superior (SUPERIOR, STATE, ETC.) COURT
OF Catoosa COUNTY

STATE OF GEORGIA

PLAINTIFF

State of Georgia

*

CASE NUMBER

*

2013-SU-CR-538

vs.

*

DEFENDANT

James Martin Ferris

*

NOTICE OF APPEAL

Notice is given that James Martin Ferris (Plaintiff/Defendant) in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court entered on the 22 day of April, 2014.

The clerk shall omit nothing (omit nothing from the record on appeal) will omit from the record on appeal the following: _____.)

A transcript of evidence and proceedings will (will/ will not) be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is Denied Motion to Suppress and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

I certify that I have this day served Steven Miller (opposing party or ~~attorney~~) with a copy of this Notice of Appeal by mail (hand delivery/mailing a copy first class mail postage prepaid) to him/her at: 9982 Commerce Street Po box 619 (complete address of party served).
Summerville, GA 30747

This the 11 day of July, 2014.

 (Sign your name.)

FORM 2 - PAUPER'S AFFIDAVIT

COURT OF APPEALS OF GEORGIA

James Martin Ferris,

*

APPELLANT

*

vs

*

CASE NUMBER

State of Georgia,

*

2013-S4-CR-538

APPELLEE

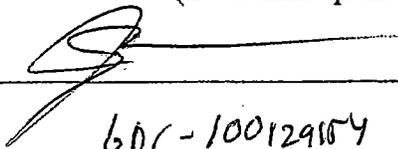
PAUPER'S AFFIDAVIT

Comes now James Martin Ferris (Appellant's name) first being duly sworn, deposes and states I am financially unable to pay the \$80.00 filing fee required for filing costs in the Court of Appeals of Georgia, and I request I be permitted to file Appellant's Application (Appellant's brief or Appellant's application) without having to pay filing fees.

This the 11th day of July, 2014.

James M Ferris-Valentine

(Your name printed or typed.)



(Sign your name.)

600-100129154 PO Box 3877

Jackson, GA 30233

(Your complete address and telephone number.)

Sworn to and subscribed before me

this the 28 day of MAY, 2014.

Notary Public

SEAL



State of Georgia
Case Number: 2013-54-CR-538

James Ferris
vs

State of Georgia

Pro-Se Motion of Appeal For Judge's Denial of Motion to Suppress, For Failure to Grant New Counsel, and for allowing Trial to Proceed:

On April 21st, 2014 the Appellant and Defendant, James Martin Ferris was found guilty on a trial lasting from April 14, 2014 to April 21st, 2014 in Kingbird, Georgia of (abuse County). The Judge present during trial and at sentencing was the Honorable Ralph Van Pelt Jr. The appellant was convicted

on 1 count of Aggravated Sexual Battery, thirteen counts of Child Molestation

and ~~thirty~~ ⁽³²⁾ counts of Sexual Exploitation of Children under Criminal codes:

17-10-7(a), 17-10-7(c), 16-7-1(b), 16-8-14(b). This trial was a jury

trial. The appellant/defendant was sentenced to life in prison followed by three

hundred and forty years with the first remainder of life plus two hundred and

fifty years to be served in confinement and the remainder on probation.

The appellant/Defendant is currently in custody at Georgia Diagnostic Center in Jackson, Georgia.

The Grounds for this Appeal are as follows:

The focus of this particular appeal is in respect to a denied Motion to suppress and Motion to squash the indictment based on a special demurrer, prior to trial. These denied motions greatly impacted trial, which cascaded into counsel not ready for trial. A motion to continue said trial (verbal) by myself was stated at both an ex parte hearing and a status conference prior to trial. I requested new counsel for counsel's failure to prepare for the motion hearing and to properly represent me at trial. And while I plan to file for a writ of Habeas Corpus on ineffective counsel, which led to the many avenues a jury could find me guilty, ineffective counsel is not the paramount issue on the appeal, but Judge Van Pelt's failure to deny a motion to suppress, to deny me new counsel, or a stay on trial.

There was an amendment to the motion to suppress hearing filed by myself which stated that all evidence seized from the car and outside should be suppressed and the resulting charges dismissed. The grounds for this assertion were:

1. I was parked in a communal vacant lot at 221 Edel drive. I lived at 102 Edel Drive, 9 houses down. In vacant lots, residents and guests are allowed to park as long as they do not hinder leasing managers and prospecting residents from viewing the property. By best practice, no more than 24 hours.

2. When I parked in the lot, not blocking traffic, as soon as I left outside the vehicle with my ^{personal} daughter Trinit, and her friend Caithlyn McShork of my side, I informed the Detective, as he ^{previously} called in a tow on his trailer.

at the at Battlefield collision, that Ms. Brown (Charbee) who lived at 112 Edel Drive, car home and could move my car. When he denied this, Harvey, the maintenance manager had just pulled up behind the Detective's SUV. I moved my key at Harvey, and tried to ask him to move my car. The Detective, Foden, told me to "shut up" and give him my keys. I said that Harvey could move it, he told me to shut up.

New Counsel

1. On September 9th, 2013, Public Defender, Sean Lowe, resigned on me, as there was a conflict. I was appointed Damon Burke, two weeks later. Then on November 29, 2013, he resigned on me. I would not meet my new attorney until January 18th, 2014, and for only ten minutes. The next time I would see him was at the Motion to Suppress hearing, which was unprepared because he never had any discourse with me on the events that transpired. No witnesses were called. In combination with this and the fact that I needed a forensic analysis completed on digital drive for my defense and other defensive measures such as character witnesses, and an investigator to talk to the accusers, since he refused to do any of this saying he had murder cases that needed his time, I wrote Judge Van Pelt Jr, about all this. He summoned me to an Ex parte hearing. He said Georgia Lac could not allow him to give me a new attorney.

2. At this time I told him I was not ready for trial. He said trial will proceed.

Trial to Proceed

1. A week before trial, once again I told the judge, without preparing for my defense, given the tri-ferca of failed attorneys, I needed a forensic done, my witnesses called...

2. At that moment, District Attorney Alan Norton said that one of the summoned jurors, who was on the panel for my trial, was an FBI agent. He stated he contacted that potential juror to contact the list of witnesses and find phone numbers for them.

Summary

Based on the first grounds, as we see in *Caston vs. Georgia*, if it can be proved that evidence was secured under the false pretense of an "inventory search", the evidence taken at that scene must be suppressed and dismissed.

Detective Foden failed to give me a chance to move my car, which was legally parked, in a vacant lot of a residence unoccupied and unrented overlaid at the time. By not allowing Trindy to call her mom, by taking the phone and putting it back in the car showed maybe that the inventory search and log was a facade. He had no reason to take the phone from my daughter or the laptop bag and re-introduce it back in the car without a search warrant, unless he had planned to use this guy as the right law to circumvent a search and seizure warrant by "inventory" and he had the right to do this because the minute after my arrest, he assumed to tow my car, without mandate from, or permission from, the Village Green Leasing office to do such a thing.

Village Green is a private community and Georgia law is clear that access authorized by the leasing office, or if the vehicle is blocking the driveway of incoming and out going traffic, that the vehicle does not need to be towed. Detective Foden, who van for Sheriff in another county and lost, knew this law and that if upon his own to make sure he could tow my car and secure possible incriminating evidence under the facade of an inventory search

My vehicle had no right to be towed until measures could be taken to make it back to my home & hours down, and especially toward to Borkle and collisions where it was sold at an auction.

Please grant this appeal and save my life. I am not a villain. I have a ^{background} in Public Relations, and was finishing my masters when I was arrested. I pay my argument as sound. I am sorry for my handwriting, I have A.D.P. and I cobbled this together hastily, loaded from emotion and facts.

But I'm not. I appeal to you now, to be granted a chance again of life. To learn from this and become a better person. To be a daddy again and take more care in how I act or in what I say. To be a common sense. To act more like the thirty-three year old I am and not like a kid to my daughter and her friends of whom there are in bars.

I am now serving life plus over two hundred years. I will die here in prison. The judge at sentencing said "I think you are too intelligent for this county. I never met anyone like you and I consider you a threat and a danger to society. I am sentencing you this way so you may die in prison."

I have been found guilty without having a fair trial to defend myself, to prove that digital evidence found was planted there, to prove a recording on my phone, which had been deleted, was ~~not~~ made by me, and to prove that my accusers had taken events, innocents at that, and forged and marked them to satisfy their grant for attention and payment for parental neglect.

Finally, based on the judge's denial to grant new counsel or a stay of trial to allow me to have a fair chance at trial, to order an ex parte hearing to discuss these issues versus on the record, I request that I be granted relief. a chance at a new trial, or even acquitted on charges.

This the 11th day of July, 2014

I certify that I have this day notified, Steve Miller, my ex-attorney, with a copy of this appeal by Air Mail, at 992 Commerce St, PO Box 619, Symersville, GA 30797

(check of service)

To the Registrar.

James Nathan Forns

Filed this 11th day of July, 2014.

Jackson, GA 30233

PO Box 3877

GDLC: 1001291514

My address for this is

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

July 24, 2014

To: Elliott Jay Franklin
Docket Number: A14A1608

Style: Elliott J. Franklin v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: Your case was dismissed on May 16, 2014.
Remittitur released on 6/4/2014.

For Additional information, please go to the Court's website at: www.gaappeals.us

COURT OF APPEAL OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA 30334

RECEIVED IN OFFICE
2014 JUL 21 PM 4:25
CLERK/COURT APPELLATE FOR
COURT OF APPEALS OF GA
7-15-2014

RE: ELLIOTT JAY FRANKLIN, APPEAL NO. A141608

DEAR:

THIS LETTER IS A BRIEF REPLY TO ADDRESS THE COURT OF APPEALS LETTER RECEIVED ON JULY 10, 2014

THE APPEAL HAS BEEN FILED WITH THE COURT APPEAL. OPPOSING PARTY HAVE BEEN PROVIDED A COPY OF THE BRIEFS OR MOTIONS OF APPELLANT FILING TO THE COURT OF APPEALS. RULES 1(A) AND 6.

YOUR TIME AND CONSIDERATION IS GREATLY APPRECIATED.

SIGNATURE. Elliot Franklin

ELLIOTT JAY FRANKLIN. PRO-SE

GDC# 149083

WASHINGTON STATE PRISON

P.O. BOX 206

DAVISBORO. GA. 31018

114141008

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the within and foregoing document (s) upon the party (s) listed below by depositing a copy of same in the United States mail in a properly addressed envelope with adequate postage thereon in below address (s)

GEORGIA COURT OF APPEALS

47 TRINITY AVENUE, S.W.

SUITE 501

ATLANTA, GEORGIA 30334

SAMUEL S. OJAS SSISYD

ATTORNEY GENERAL

GEORGIA DEPARTMENT OF LAW

40 CAPITAL SQUARE, S.W.

ATLANTA, GEORGIA 30334-1300

This the 14 day of July, 2014



Handwritten signature and date 7.14.14

Signature, Elliott Jay Franklin

ELLIOTT JAY FRANKLIN, PRO-SE
GDC # 149083
WASHINGTON STATE PRISON
P.O. BOX 206
DAVISO, WA 98118

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 28, 2014

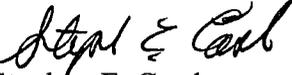
Mr. Waseem Daker
GDC 901373
GD&CP
Post Office Box 3877
Jackson, Georgia 30233

RE: A13A0533, A13A1473, A14D0031, A14D0115 and A14D0132

Dear Mr. Daker:

I apologize, but our office does not supply any additional information than that which is provided in the Court Order or that which is provided in the opinion.

Sincerely,


Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/br

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE
DATE 07-28-2014 BY 60322 UCBAW/STP/STP



Court of Appeals of Georgia

August 6, 2014

TO: Mr. Kenya R. Green, A-103B, Effingham County Jail, Post Office Box 1015, Springfield, Georgia 31329

RE: **Court Rules**

REQUEST FOR COPIES

- We received your request for copies. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. **The Court of Appeals of Georgia is not subject to the Open Records Act.**

The appellant's Brief contains _____ pages.

The appellee's Brief contains _____ pages.

The opinion contains _____ pages.

Other:

The copies you requested are a total of _____ pages totaling \$_____.

Please send your check or money order to the following address specifying what copies you wish be sent to you. Your request will be processed and sent to you by return mail.

Court of Appeals of Georgia
47 Trinity Avenue, S.W. • Suite 550
Atlanta, Georgia 30334

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

- To answer your question sent to us via postcard, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review.

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing.



2014

Georgia Court of Appeals

RULES

Last Update: May 15, 2014

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

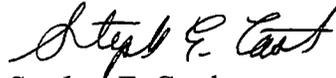
August 6, 2014

Mr. Nathan Fisher
GDC1051942
Johnson State Prison
Post Office Box 344
Wrightsville, Georgia 31096

Dear Mr. Fisher:

In response to your letter received in this office, we do not have a case styled in your name pending in this Court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

RECEIVED IN OFFICE

2014 JUL 30 PM 2:59

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Clerk of Court

Court of Appeals of Georgia

July 25, 2014

re: Criminal case No. 99-9-0090; Notice of Appeal.

Dear Clerk of Court,

My court-appointed lawyer, A. Lee Fudger, filed a Notice of Appeal in Cobb Superior Court in the above case on July 7, 2014, and thus concluded his representation of my criminal case. I have requested the appointment of appellate counsel, however, in the event that appellate counsel is not appointed, I want to inform the Court that I will be representing myself in this matter, pro se.

I wish to make sure that my appeal rights not be forfeited and inform the Court that I can reached at the address below should the court need to notify me for any reason. Thank you

cc: file.

Respectfully Submitted

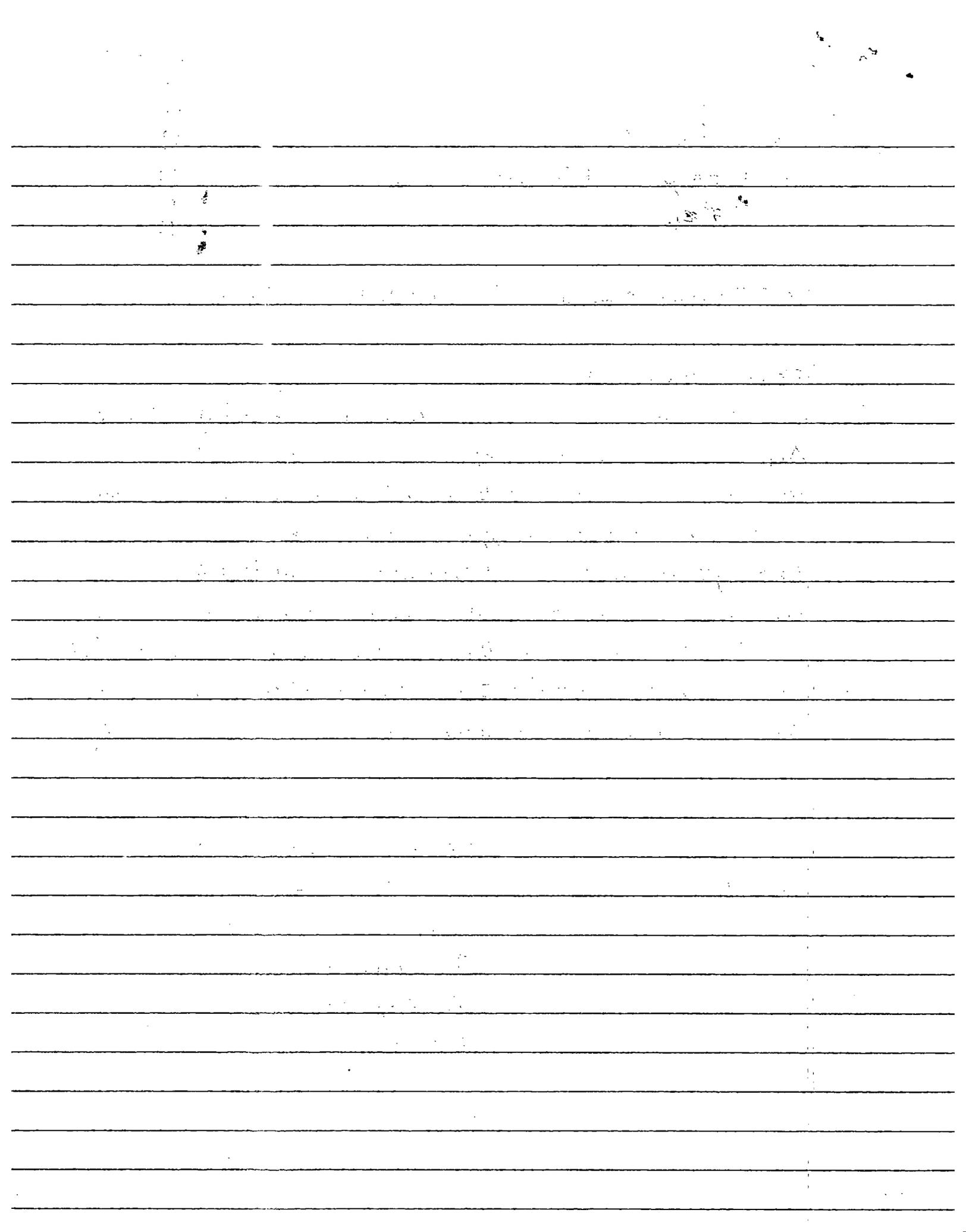
Nathan Fisher

Nathan Fisher #1051942

Johnson State Prison

P.O. Box 344

Wrightsville, Ga 31096



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 6, 2014

To: Mr. Daniel E. Cobble, GDC7585172, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

For Additional information, please go to the Court's website at: www.gaappeals.us

In Re George's cert of appeal

Criminal

Daniel Earle Clegg
7585172

Peffer

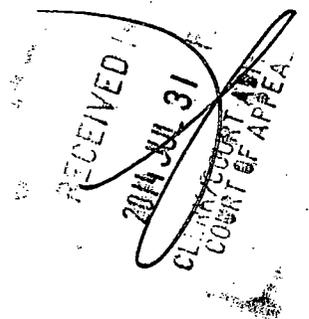
Brian Owen, Commissioner
of Georgia Dept of
Corrections
v.
Peffer

et al. v. Peffer

Direct appeal of
cert of appeal
and cert of appeal
and cert of appeal
as a paper

Direct appeal of Guinnet's paper
cert of appeal of Peffer's m. lhp & criminal
warrant applications to arrest law -
enforcement employees for crimes and as a paper

Peffer opposes cert of appeal of Peffer for the following
PSS Reasons:



Today is 7/31/14 of Daniel Earle Clegg
Peffer

Master List of employees

(List employees) ; also fill in center file

as per the (H&O) of

O.C.G.A. 5-5-20

O.C.G.A. 17-1-3

O.C.G.A. 9-10-133

O.C.G.A. 17-4-48

O.C.G.A. 24-1-2

O.C.G.A. 24-10-60

O.C.G.A. 24-10-61

State ment of case 192

② confirm so commission not paying me
so constructive contempt fees in his own

to that extent without any court order is
infringe laws, so that also that

not enforce laws, so that part to do a set
take papers money for getting part to do a set

he can't doing, and it's absence of power can't
take papers money for getting part to do a set

independence of 1976 of states paragraph 2
relates of court of law since de clarification of

says government was made for the purpose of
protecting citizens rights, but he can't protecting

my citizens rights
case law Skinner v. uphold District

③ of upholding good law to have default policy
deliberate indifference to have default policy

of failing to investigate
but George Dept of corrections NOR anyone else

ever, investigate my claim of poor way of
will state prison cert form assign thing me, get

them lying by their saying I assigned for prison
door way or diagram of a cell and I only provided

they attacked me in middle of a cell and I only provided
one after he un-assign me in middle of a cell but

never killed him any other cell chest at all and get
any kill where and when they said, but only after they

solely for government assign (they were then financing me
it's a prison for government assign (they were then financing me

is a prison for government assign (they were then financing me
it's a prison for government assign (they were then financing me

agains my commission not investigate 12 = crime

Switzerland's statement

Since preference has been in beginning for over 5 years straight only due to my fear of being framed again by cart teams, I'm not allowed to see law giving complete access after phones have access to and I can't allowed check out law books by.

as all IT government policy, so I can't get exact code in law saying what gives court's appeal in Switzerland, but from past experience I know Georgia's court of appeals does have

Switzerland as per Georgia 1983 constitution and state laws of O.C.G.A. 17-1-3 and O.C.G.A. 9-10-133 and O.C.G.A. 17-4-46

and O.C.G.A. 24-1-2 and O.C.G.A. 24-10-1 and O.C.G.A. 24-10-10 and so on as far as

It's appeal of a Guinnet county superior court of Georgia don't order on any in the

criminal arrest warrant applications I know with papers, and 3 strikes law does

not apply to criminal cases, and P.L.R.A. law of disc. appeal app: then requirement does

not apply to criminal cases as far as this, there for the Georgia's court of appeals does have jurisdiction

enumerated cases ps 7 & 2 ps

187 enumerated cases ! clerk Ruler contrary to multiple
cases of O.C.G.A. 5-5-20, and 17-1-3 and
9-10-133 and 17-4-40 and 24-10-61 and
24-10-60, and so on
argument and citation of authoritative. Guzman

superior clerk denied my criminal paper
arrest warrant application is illegal because
it violates numerous laws below

- ~~O.C.G.A.~~ 17-1-3
- ~~O.C.G.A.~~ 9-10-1
- O.C.G.A. 17-4-40
- O.C.G.A. 24-10-61
- O.C.G.A. 24-10-60

says all things but mostly there is being
able to present evidence and have a hearing
and cross examine people and file a paper
and all done in under 30 days and no expense
for violating it normally, etcetera.

as I do not have to wait till I'm out of
prison 7 years from now and 7 years from now
the 4 year statute of limitation to prosecute people
I'm asking to be arrested until have expired and
I do not have to pay fines fees, as a pauper
petition will suffice especially when my money
to pay fines fee was stolen by people I'm trying to
get arrested, and this is denial of access to clerk
and certain forms are not available to me in prison
and it violates Skinner v. Uptoff (D. Wyo 2008)

certificate of service

Third certificate of service that I have

server appear cannot point to files as
I not require an another appeal of a
certification order on a criminal process
applicants, but they non-Res, by

~~_____~~

by hand de liver to a house mail to
defendants by sending to new warden office
of (Franklin) Prison for his office to hand
de liver to each defendant, to I

Brian Higgins, court clerk
of Georgia Dept of corrections
P.O. Box 1529
Macon, Georgia 31029

This is day of July 2014
David Higgins
pro se person

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 6, 2014

Mr. Jose S. Chavez-Ortiz
A042225721
Post Office Box 560
Trout, Louisiana 71371

Dear Mr. Chavez-Ortiz:

In response to your correspondence received in this office, we do not have a case styled in your name pending in this Court.

We are returning your documents to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

INDEX OF CONTAINS LISTED II index pg.

- DHS / USICE Detainee In-Transit Notification. 2 pages
- Form G-639, Freedom of Information/Privacy Act Request. 2 pgs.
- M 2255 of Title 28 U.S.C - notice of motion to set aside. 2 pgs.
- BRIEF FOR RELIEF REVIEW. Pro-Se. 2 pages
- Translation for CHAVEZ-ORTIZ JOSE SACRAMENTO of the original letters sent out by him asking for help. LOG 12 pages.
 - Introduction pg 1
 - Letter of January 21, 2014. 2 pg.
 - Letter of February 19, 2014. 3 pgs
 - Declaration Act. 4 pgs
 - Letter to honorable Judge. 5 pgs.
 - Letter of March 19, 2014. 9 pgs
 - File A Brief On - relevant facts. 10 pgs.
 - Certification of Translation. 12 pgs.
- English Translation of Birth Certificate 2 pgs.
- Spanish Copy of Birth Certificate. 2 pgs.
- DHS Form G-28 (Given to Immigration Defender) 5 pgs.
- G-325A, Biographic Information 2 pgs
- USCIS Form I-912 Request for Fee Waiver. 5 pgs.
- Copy page with - Social Security Card Number. 1 pg.
 - TWO Past Issued Resident Alien and Permanent Resident Cards.
- Georgia State Driver's License.
- Exhibit "D"
 - Notice to Appear Form I-862 2 pgs.
 - In the Superior Court of Gwinnett County, GA Final Disposition on Criminal Act No. 91-B-1915-5. Front page
 - Microfilm Roll 13 - Bill of Indictment 1 of 2 page No. 91-B-01915-5
 - 2 page Form I-862.
 - Single page Form I-826 Spanish to NTA. Resolution and Notice of Rights. 1 page.
 - Form I-200, Warrant for Arrest of Alien. 2 pgs.
 - Form I-286, Notice of Custody Determination. 1 pg.
 - Form I-261, Additional Charges of Inadmissibility / Deportability. 2 pages.
 - VW's - Notice of Hearing in Removal Proceeding. 3 and
 - one U7 Notice of Custody Redetermination Hearing...

INDEX OF CONTAINING LISTED

- Exhibit "D" + Continued...
- Notice dated March 21, 2014 - Rejected
- Filing - Notice to Detained Unrepresented Respondent. 5 pages. (Documents being rejected where in English including two request forms in English/Spanish heading)
- X5 form - Custody Order of the Immigration Judge - Set Bail at \$7,500 Bond. 1pg.
- Form FOIR - 33/IC - Alien's Change of Address Form / Immigration Court.
- Detainee In-Transit Notification in English. 2 pages
- Detainee In-Transit Notification in Spanish. 2 pages
- GEO Track - LASALLE DETENTION FACILITY SUBJECT Profile
- Request # 789. Requesting Surgery - ICE 3/7/14.
- Request # 7610. Requesting Lawyer Phone Call - 6/6/14.
- Special Needs Form. 1 page. 4/17/2014.
- USCIS Form G-1145 - e-Notification of Application/Petition Acceptance 1 page. (Sent to my lawyer to file with USCIS Form I-90)
- USCIS Form I-90 (For E-FILE DRAFT) - Application to Replace Permanent Resident Card. 4 pages.
- USCIS Form I-90 (Copy of Mailing to file) - Application to Replace Permanent Resident Card. 4 pages. and 10 pages to USCIS Form I-90 instructions for Application to Replace Permanent Resident Card.
- USCIS Form I-912 - 9 pages - Instructions for Request for Fee Waiver and 5 pages - Request for Fee Waiver (to be filed later on).
- Notarized Certificate Regarding Inmate Account. One page with Transportation Baggage Check No. 2767502
- Counsel Business Card
- Calhoun County Sheriff's Office, Jail Commissary Account ID: 90316 Check stub # 5051
- One page - GEO-LASALLE Resident Account Summary 7/10/14
- PRACTICE RECAP on Lien Holder to my last Inmate, work pick up truck. 1 page
- 8 page - GEO-LASALLE Resident Transaction Receipts.
- 15 page - Harvard Law Review 78 Harv. L. Rev. 1434
- 16 page - Rehabilitation 504 Act. Reference.

III index pg

DEPARTMENT OF HOMELAND SECURITY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

DETAINED IN-TRANSIT NOTIFICATION

A# 042225721

DETAINEE NAME: JOSE SAGRA AMARTE CHAVEZ ORTIZ
NATIONALITY: MEXICO

Based on allegations that you are unlawfully present in the United States you have been arrested by U.S. Immigration and Customs Enforcement (ICE). You will be scheduled for a hearing before an immigration judge to respond to these allegations:

Your case will be scheduled with an immigration judge located at:

Executive Office of Immigration Review

1900 East Whalley Road
Oakdale, LA 71463
(800) 898-7180

Until your hearing you will be detained by ICE. If you are eligible for a bond, the bond may be paid at any ICE office that accepts bonds.

At this time you will be detained at:

Davidson County
448 2nd Avenue North
Nashville, TN 37210
(615) 862-8170

This location listed above is considered an in-transit point. Prior to your hearing location you may be transferred to the following in-transit location in route to Louisiana immigration hearing locations. While at the following facility in Alabama your Immigration Liaison officer can be reached at: (256) 543-8154.

DeKalb County
2801 Jordan Road, SW
Fort Payne, AL 35968
(256) 845-3801

For your immigration hearing you will be detained at one of the following four locations:

South Louisiana Detention Center

3843 Stagg Avenue
Basile, LA 70515
(337) 432-5493

U.S. Bureau of Prisons

Federal Detention Center
Physical Address: 2105 E Whatley Road
Oakdale, LA 71463
Detainee mail: P.O. Box 5010
Oakdale, LA 71463
(318) 335-4070

LaSalle Detention Facility

Physical Address: 830 Pinehill Road
Jena, LA 71342
Detainee mail: P.O. Box 560
Trout, LA 71371
(318) 992-7800

Tensas Parish Prison

HC62 Box 500
Waterproof, LA 71375
(318) 749-5810

If you have an attorney and he/she has filed a properly executed Form G-28 with ICE, your attorney will be notified whenever you are transferred between facilities. It is your responsibility to notify your family and friends of your detention location.

If you have questions, while at the Louisiana detention facilities listed above, an Immigration liaison officer or Deportation Officer assigned to your case may be reached at:

U.S. Immigration and Customs Enforcement
1010 East Whatley Road
Oakdale, LA 71463
(318) 335-7500

I hereby acknowledge that I have received the in-transit destination information. I have also been notified that it is my responsibility to notify family members, if I so desire.

DETAINEE SIGNATURE Jose S. Chavez Ortiz DATE 08/01/2014

AGENT/OFFICER NAME or BADGE No. _____

AGENT/OFFICER SIGNATURE _____ DATE _____

NOTE: Use of this form is optional. Any written format for a Freedom of Information or Privacy Act request is acceptable.

START HERE - Type or print in black ink. Read instructions before completing this form.

1. Type of Request (Check appropriate box. **NOTE:** If you are filing this request for records on behalf of another individual, please respond to Number 1 as it would apply to that individual.)

- Freedom of Information Act (FOIA): I am not a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.
- Freedom of Information Act (FOIA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting documents other than my own records.
- Privacy Act (PA): I am a U.S. citizen/Lawful Permanent Resident and I am requesting my own records.
- Amendment of Record (PA only): I am a U.S. citizen/Lawful Permanent Resident and I am requesting amendment of my own records.
- Other: _____

2. Description of Record(s) Requested:

NOTE: While you are not required to respond to all items in Number 2, failure to provide complete and specific information as requested may result in a delay in processing or an inability to locate the record(s) or information requested.

- Complete Alien File (A-File)
- Other (please specify): Tax Returns filed with IRS 1992 until 2011

Purpose: (Optional: You are not required to state the purpose of your request. However, doing so may assist USCIS in locating the record(s) needed to respond to your request.)

Filing Form I-90 - Application to Replace Permanent Resident Card, and motion to vacate and set a side prior criminal convictions.

Family Name (Last Name)		Given Name (First Name)		Middle Name
CHAVEZ-ORTIZ		JOSE		SACRAMENTO
Other Names Used (if any)		Name at time of entry into the U.S.		I-94 Admission #
JOSE S. CHAVEZ-ORTIZ		JOSE SACRAMENTO CHAVEZ		
Alien Registration Number (A#)	Petition or Claim Receipt #	Country of Birth	Date of Birth (mm/dd/yyyy)	
042225721	I-90, G-325A.	MEXICO	03/29/1956	

Names of other family members that may appear on requested record(s) (i.e., spouse, daughter, son):

Family Member's Name: Given Name (First Name)		Middle Name	Family Name (Last Name)	Relationship
ANNET			CHAVEZ	Spouse
Father's Name: Given Name (First Name)		Middle Name	Family Name (Last Name)	
FIDENCIO			CHAVES	
Mother's Name: Given Name (First Name)		Middle Name	Family Name (Last Name, including Maiden Name)	
MARIA		ISABEL	ORTIZ	
Country of Origin (Place of Departure)		Port of Entry into the U.S.		Date of Entry (mm/dd/yyyy)
MEXICO.		EL PASO, TEXAS		10/19/1989
Manner of Entry (Air, Sea, Land)		Mode of Travel (Name of Carrier)		
LAND		PERSONAL CAR		

3. Subject of Record Consent to Release Information *(Must be signed by the subject of record(s) requested.)*

By my signature, I consent to allow USCIS to release to the requester named in Number 5 (Check applicable box):

- All of my records A portion of my records *(If a portion, specify below what part, i.e., copy of application.)*

Print Name of Subject of Record CHAVEZ-ORTIZ JOSE SACRAMENTO
 Signature of Subject of Record Jose S. Chavez Ortiz Date (mm/dd/yyyy) 06/08/2014

Deceased Subject - Proof of death must be attached *(Obituary, Death Certificate, or other proof of death required)*

4. Verification of Identity *(Required; Fill out all that apply.)*

Name of Subject of Record <i>(First, Middle, Last)</i>		Daytime Telephone	E-mail Address
Jose Sacramento Chavez-Ortiz		318-992-7800	
Address <i>(Street Number and Name)</i>			Apt. Number
2168 Dowdell Drive			
City	State	Zip Code	
CHAMBLEE	GEORGIA	30341-3406	
Date of Birth <i>(mm/dd/yyyy)</i>	Place of Birth		
03/29/1956	CEIBAS DE TRUJILLO		

The Subject of Record must provide a signature under either a Notarized Affidavit of Identity or a Sworn Declaration Under Penalty of Perjury:

Notarized Affidavit of Identity

Signature of Subject of Record Jose S. Chavez Date (mm/dd/yyyy) 7-8-14
 Subscribed and sworn to before me this 8th day of July 2014 Telephone No. 318-992-7801
 Signature of Notary Shereca Isaac #88404 My Commission Expires on 3/31/2019

OR

Sworn Declaration Under Penalty of Perjury

Executed outside the United States

If executed outside the United States: "I declare (certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Executed in the United States

If executed within the United States, its territories, possessions, or commonwealths: "I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Signature of Subject of Record _____

Signature of Subject of Record _____

5. Requester Information

By my signature, I consent to pay all costs incurred for search, duplication and review of materials up to \$25 *(See instructions)*

Signature of Requester: _____

Name of Requester <i>(Fill out if different from the Subject of Record.)</i>		Daytime Telephone	E-mail Address
Address <i>(Street Number and Name)</i>			Apt. Number
City	State	Zip Code	

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 16, 2014

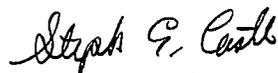
Mr. Roscoe Dean
612 East Cherry Street
Jesup, Georgia 31546

RE: A14A1972. Roscoe Emory Dean, Jr. v. Mary Drawdy Diaz

Dear Mr. Dean:

I am in receipt of the Certificate of Service advising Notice of *Fieri Facias*. The above appeal was dismissed in this Court on July 14, 2014. I have enclosed a copy of the Court's order for your review.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

WRIT OF FIERI FACIAS

IN THE STATE COURT OF WAYNE COUNTY, GEORGIA

MARY DRAWDY DIAZ)
)
 PLAINTIFF.)
)
 Vs.) CASE NO. 13CVS0038
)
)
 ROSCOE EMORY DEAN, JR.)
)
 DEFENDANT.)

CERTIFICATE OF SERVICE

This is to certify that I have ~~this day served~~ a true and correct copy of the within and foregoing ~~NOTICE OF FIERI FACIAS upon the Defendant, ROSCOE EMORY DEAN, JR.~~ 612 EAST CHERRY STREET, JESUP, GEORGIA 31546 by First Class Mail a copy to him.

So certified on this 3rd day of June 2014



MARY DRAWDY DIAZ, PLAINTIFF

153 Drennon Drive, Jesup, Georgia



Court of Appeals of the State of Georgia

ATLANTA, July 14, 2014

The Court of Appeals hereby passes the following order:

A14A1972. ROSCOE EMORY DEAN, JR. v. MARY DRAWDY DIAZ.

Mary Diaz filed a suit on a note against Roscoe Dean. The trial court entered judgment in favor of Diaz for \$5,900. Dean appealed directly to this Court. We lack jurisdiction.

Where, as here, the total judgment is \$10,000 or less, the aggrieved party must follow the discretionary appeal procedures in OCGA § 5-6-35. See OCGA § 5-6-35(a) (6). The appellant's failure to comply with these procedures deprives us of jurisdiction over this appeal, which is hereby DISMISSED. See *Hill v. Rose Electric Co.*, 220 Ga. App. 603 (469 SE2d 844) (1996); *Klobe v. Montgomery Ward & Co.*, 178 Ga. App. 164 (342 SE2d 496) (1986).



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/14/2014*

*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.*

Stephen E. Carlton, Clerk.

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 17, 2014

To: Mr. James R. Cooley, 402 Harpy Eagle Drive, Winder, Georgia 30680

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals under your name.
- Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves.

You must wait until you have received a Docketing Notice from the Court of Appeals before you can file an Appellant's Brief.
- Your Notice of Appeal did not include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. In an appeal of a criminal conviction in a superior court, the State is represented by the District Attorney or an Assistant District Attorney.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.

For Additional information, please go to the Court's website at: www.gaappeals.us

RECEIVED IN OFFICE

2014 JUL 16 AM 10:31

CLERK, COURT OF APPEALS OF GEORGIA

FILED IN OFFICE

JUL 10 2014

CLERK, COURT OF APPEALS OF GEORGIA

IN THE COURT OF APPEALS FOR THE STATE OF GEORGIA

James Rudolph Cooley, Appellant

v.

ATHENS REGIONAL MEDICAL CENTER

Appellee

Case NO:

BRIEF OF APPELLANT
TABLE OF CONTENTS

PART ONE: PROCEDURAL HISTORY AND STATEMENT OF FACTS.....2

PART TWO: ENUMERATION OF ERRORS.....2

PART THREE: ARGUMENT.....2

PART ONE: PROCEDURAL HISTORY AND STATEMENT OF FACTS

James Rudolph Cooley, (“Appellant”) one of the people of Georgia, appeals from the trial court’s Decision denying appellant’s **MOTION TO VACATE SUMMARY JUDGEMENT**. Jurisdiction can be challenged at any time, even on appeal. Jurisdiction must be met before a decision can be made. Appellee did not have a complaining witness, facts on record, affidavits, depositions or admissions to support their case, thereby not establishing jurisdiction. The only thing the trial court based its decision on were statements of counsel.

“statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment”

“where there are no depositions, admissions or affidavits, the court has no facts to rely on for a summary determination”. *Trinsey v. Pagliaro* D. C. Pa. (1964), 229 F. Supp. 647.

PART TWO: ENUMERATION OF ERRORS

1. Trial Court erred in granting appellee summary judgment
2. Trial Court erred in denying appellant Motion to Vacate Summary Judgment
3. Trial Court abused its discretion by failing to establish jurisdiction

Pursuant to § 5-6-34, jurisdiction is vested in this Court because final judgment has been entered, and this case does not fall within any of the classes of cases reserved to the Supreme Court.

PART THREE: ARGUMENT

On February 24th 2011, the trial court granted appellee a Motion for Summary Judgment; having no facts in evidence only relying on counsel statements. Four criteria must be met to establish jurisdiction; they are:

- 1 & 2. Opposing parties
3. Subject Matter

4. Complaining Witness

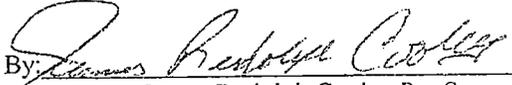
A complaining witness must testify either by deposition, affidavit or in person, raising his hand and swearing to tell the truth, A corporation cannot be a complaining witness, as a corporation is a piece of paper. In my Motion to Vacate Summary Judgment, I outlined for the Court that the appellee did not place any facts on the record, no facts appear on the record whether by deposition, admission, answer to interrogatory or by affidavit to suggest or to support the arguments of appellee on pleadings. Documents proffered by appellee's attorneys are unverified because there is no sworn testimony to support the documents that appellee's attorneys submitted into evidence.

"manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." *United States v. Lovasco* (1977) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752.

"Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting statements of counsel concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted." *Gonzales v. Buist* (2012) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463.

"No instruction was asked, but, as we have said, the judge told the jury that they were to regard only the evidence admitted by him, not statements of counsel", *Holt v. United States*, (1910) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2.

The Trial Court had not established jurisdiction when granting Summary Judgment, therefore the judgment itself is void. The Trial Court should have granted appellant his Motion to Vacate Summary Judgment.

By: 
James Rudolph Cooley Pro Se
402 Harpy Eagle Drive
Winder, Georgia 30680
708-428-5618

CERTIFICATE OF SERVICE

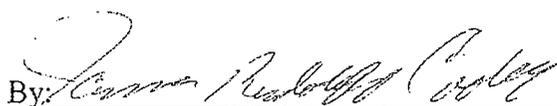
I hereby certify that I have this 15th day of July, 2014 served a true and complete copy of the within and foregoing **BRIEF OF APPEAL** upon the Fortson, Bentley & Griffin in this matter by causing to be delivered in person and signed for, a true copy of same addressed to Fortson, Bentley & Griffin, on file as follows:

Fortson, Bentley & Griffin
2500 Daniell's Bridge Road
BLDG 200, Suite 3A
Athens Ga, 30606
706-548-1151

Signed By:



By:



James Rudolph Cooley Pro Se
402 Harpy Eagle Drive
Winder, Georgia 30680
708-428-5618

Done! 7-15-14

James Rudolph Cooley C/O
402 Harpy Eagle Drive
Winder, Georgia
[30680] N/D

FILED
SUPERIOR COURT
BARROW COUNTY, GA

2014 JUN 23 AM 10: 14

REGINA B. MCINTYRE, CLERK

IN THE SUPERIOR COURT OF BARROW COUNTY
STATE OF GEORGIA

ATHENS REGIONAL MEDICAL CENTER)
Plaintiff)
)
v.)
)
JAMES R. COOLEY)
Defendant)
)
_____)

Case No: 10-CV-658-B

NOTICE OF APPEAL

NOTICE OF APPEAL

Notice is hereby given that, defendant above named, hereby appeals to the (Court of Appeals) from the **ORDER DENYING MOTION TO VACATE SUMMARY JUDGMENT** entered in this action on June 17th 2014.

Motion to Vacate Summary Judgment was filed on May 21st 2014 and Trial Court denied motion on June 17th 2014.

Evidence to be submitted to the (Court of Appeals) will be:

- 1. Copy of Original Complaint
- 2. Copy of Original Order granting Summary Judgment
- 3. Copy of Original Motion to Vacate Summary Judgment
- 4. Copy of Order denying Motion to Vacate Summary Judgment

Trial Court does not have jurisdiction on appeal; jurisdiction is granted to the Court of Appeals.

Pursuant to § 5-6-34, jurisdiction is vested in this Court because final judgment has been entered, and this case does not fall within any of the classes of cases reserved to the Supreme Court.

By: James Rudolph Cooley
James Rudolph Cooley

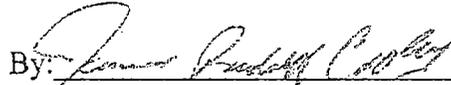
CERTIFICATE OF SERVICE

FILED
SUPERIOR COURT
BARROW COUNTY, GA

I hereby certify that I have this 23rd day of June, 2014 served a true and complete copy of the 2014 JUN 23 AM 10:14
within and foregoing NOTICE OF APPEAL upon the Plaintiff's Attorney and Honorable Joseph
H. Booth in this matter by causing to be deposited in the U.S. Mail, proper postage prepaid, a true
copy of same addressed to Plaintiff's Attorney and Honorable Joseph H. Booth on file as follows:
REGISTERED MAIL BY AIR

Robert N. Elkins C/O
Fortson, Bentley, & Griffin, P.A.
2500 Daniell's Bridge Road
Building 200, Suite 3A
Athens, Georgia 30606
706-548-1151

Honorable Joseph H. Booth C/O
Jackson County Courthouse
5000 Jackson Parkway, Ste. 330
Jefferson, Georgia 30549
706-387-6392

By: 
James Rudolph Cooley Pro Se
402 Harpy Eagle Drive
Winder, Georgia [30680]
708-428-5618

FILED
SUPERIOR COURT
BARROW COUNTY, GA.

IN THE SUPERIOR COURT OF BARROW COUNTY
STATE OF GEORGIA

2014 JUN 17 PM 3:58

ATHENS REGIONAL MEDICAL CENTER)
Plaintiff,)
v.)
JAMES R. COOLEY)
Defendant.)
_____)

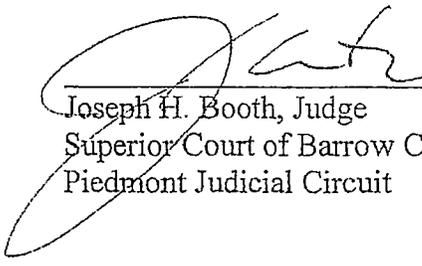
REGINA B. MCINTYRE, CLERK
CASE NO. 10-CV-658-B

ORDER DENYING MOTION TO VACATE SUMMARY JUDGMENT

On May 21, 2014, Defendant filed his Motion to Vacate the Summary Judgment Order entered against him on February 24, 2011. The Court has reviewed the motion and the entire record before it. This motion presents no cognizable legal claim or argument which would justify vacating the prior order.

Therefore, it is hereby **ORDERED** that the Defendant's Motion to Vacate Summary Judgment is **DENIED**.

So **ORDERED** this 17th day of June, 2014.



Joseph H. Booth, Judge
Superior Court of Barrow County
Piedmont Judicial Circuit

Copies to:

James R. Cooley
402 Happy Eagle Drive
Winder, Georgia 30680

Roy E. Manoll, III
c/o Fortson, Bentley & Griffin, P.A.
2500 Daniell's Bridge Road
Building 200, Suite 3A
Athens, Georgia 30606

IN THE SUPERIOR COURT OF BARROW COUNTY
STATE OF GEORGIA

FILED
SUPERIOR COURT
BARROW COUNTY, GA

2014 JUN 12 AM 9:14

ATHENS REGIONAL)
MEDICAL CENTER)
Plaintiff)
)
v.)
)
JAMES R COOLEY)
Defendant)

Civil Case No: 10-CV-658-B

REGINA B. MCINTYRE, CLERK

RULE NISI

Defendant having filed MOTION TO VACATE SUMMARY JUDGMENT, let Plaintiff ATHENS REGIONAL MEDICAL CENTER or its duly authorized attorneys show cause before this court at the Barrow County Courthouse, 652 Barrow Park Drive, Winder, Georgia at 1:30 pm on the 4th day of August, 2014 in TAD Courtroom, why the Defendant's prayers should not be granted.

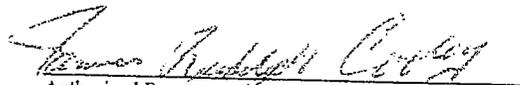
~~The Clerk is directed to transmit a copy of this Order to counsel for both parties.~~

So Ordered, this 9th day of JUNE, 2014.



HONORABLE Joseph H. Booth

Presented By:


Authorized Representative for JAMES R. COOLEY



Court of Appeals of Georgia

July 21, 2014

TO: Mr. Abdul Malik Chestnut, 5194 Miller Woods Trail, Decatur, Georgia 30035

RE: **A14A1724. Abdul Malik Chestnut v. Citi Mortgage, Inc.**

CHECK RETURN

- Your check number _____ in the amount of _____ written on the account of your firm for the filing fee in _____ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by _____.

CASE STATUS - DISPOSED

- Your appeal was dismissed by order on June 30, 2014. The remittitur issued on July 16, 2014, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

CASE STATUS - PENDING

- The above referenced appeal is the only pending appeal in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

COURT OF APPEALS
STATE OF GEORGIA

FILED IN OFFICE
JUL 17 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA

ABDUL MALIK CHESTNUT
(Petitioner/Appellant),

Case No. A14A1724

Versus

CITIMORTGAGE, INC.
(Respondent/Appellee).

MOTION FOR RECONSIDERATION

NOW COMES the Appellant, ABDUL MALIK CHESTNUT, in the above matter hereby petitions this Court to reconsider the Dismissal of Appeal that was ordered on 6/30/2014 for the following reason:

1. On Wednesday, March 19, 2014, the trial court entered an order dismissing this case. On Friday, April 18, 2014, plaintiff Abdul Malik Chestnut presented for filing to the clerk's office an affidavit of poverty (pauper's affidavit) and notice of appeal. Due to the Easter Sunday holiday, Judge Seeliger & his staff's office was closed due to holiday.
2. The 30th day deadline for filing was on Saturday, April 19, 2014, which the Courthouse is closed. State laws states if the 30th day falls on weekend or holiday, the deadline is extended to the "NEXT/FOLLOWING" business day.
3. On Monday, April 21, 2014, the Notice of Appeal was TIMELY filed by the Clerk's Office on the next business day.
4. Therefore, the Plaintiff's Notice of Appeal was actually filed within 30 days and therefore the appeal should NOT have been dismissed.

Wherefore, Appellant asks for his request for his Appeal to be received as timely and be reinstated.

Respectfully, submitted this 16th day of July, 2014.

X

ABDUL MALIK CHESTNUT
5194 MILLER WOODS TRAIL
DECATUR, GA 30035
678.708.6126

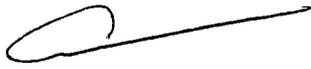
RECEIVED IN OFFICE
2014 JUL 17 PM 2:54
CLERK/COURT REPORTER
COURT OF APPEALS OF GA

CERTIFICATE OF SERVICE

I certify that I have this day served Ashby L. Kent: Burr & Forman (Appellee) with a copy of this Motion to Extend Time by first class mail by U.S. Post Office at: 171 Seventeenth Street, N.W., Suite #1100, Atlanta, GA 30363.

This the 16th day of July, 2014.

X



ABDUL MALIK CHESTNUT
5194 MILLER WOODS TRAIL
DECATUR, GA 30035
678.708.6126

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS**

Date: July 22, 2014

To: Mr. Herschel G. Byrd, GDC328776, Riverbend Correctional Facility, 196 Laying Farm Road, S.E.
Milledgeville, Georgia 31061

Docket Number: A14A1027 **Style:** Herschel Byrd v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Other: **Your Motion to Withdraw your appeal was granted on July 11, 2014. The appeal is closed. I have enclosed a copy of the order granting permission to withdraw the appeal for your review.**

For Additional information, please go to the Court's website at: www.gaappeals.us

ORIGINAL

RECEIVED IN OFFICE

2014 JUL 21 PM 3:54

CLERK OF COURT ADMINISTRATOR
COURT OF APPEALS OF GA

HERSCHEL G. BYRD GDC NO. # 328776

RIVERBEND CORRECTIONAL FACILITY

196 LAYING FARM ROAD SE

MILLEDGEVILLE, GEORGIA 31061

JULY 14, 2014

COURT OF APPEALS OF GEORGIA

47 TRINITY AVENUE SW, SUITE 501

ATLANTA, GEORGIA 30334

RE: HERSCHEL G. BYRD V STATE OF GEORGIA

CASE NO # A14A1027

PLEASE FIND AND FILE THE ENCLOSED ORIGINAL
MOTION TO DIRECT REMEDY FOR APPELLANT'S
FRUSTRATED RIGHT TO WITHDRAW GUILTY PLEA
AND OR CORRECT A MANIFEST INJUSTICE WHICH
CONSIST OF 19 PAGES INCLUDING AFFIDAVIT AND
CERTIFICATE OF SERVICE. THUS ALSO FIND TO
COPIES OF SAID MOTION.

WITH THE BEST OF REGARDS.

RESPECTFULLY

Herschel G. Byrd

HERSCHEL G. BYRD # 328776

PAGE 1 OF 1

COPY

RECEIVED IN OFFICE
2014 JUL 21 PM 3:54
CLERK OF SUPERIOR COURT
STATE OF GEORGIA

COURT OF APPEALS
STATE OF GEORGIA

*
HERSCHEL G. BYRD * CASE NO. #
V * # A14A1027
*

*
STATE OF GEORGIA *
*

MOTION TO DIRECT REMEDY FOR APPELLANT'S
FRUSTRATED RIGHT TO WITHDRAW GUILTY PLEA
AND OR CORRECT A MANIFEST INJUSTICE

COMES NOW HERSCHEL G. BYRD, PROSE APPELLANT
IN THE ABOVE STYLED CASE AND MOVES THIS COURT
TO REMAND CASE TO TRIAL COURT AND DIRECT THE
TRIAL COURT TO RENDER REMEDY FOR APPELLANT'S
FRUSTRATED RIGHT TO WITHDRAW HIS GUILTY PLEA
BEFORE SENTENCE WAS PRONOUNCED AND OR
TO CORRECT A MANIFEST INJUSTICE. THUS
SUPPORTS THIS MOTION BY SHOWING AND STATING
AS FOLLOWS:

1. APPELLANT WAS PRESUDICIOSLY DEPRIVED OF
HIS RIGHT TO WITHDRAW HIS GUILTY PLEA BEFORE
SENTENCE WAS PRONOUNCED; FRAUDULENTLY -

Court of Appeals of the State of Georgia

ATLANTA, July 11, 2014

The Court of Appeals hereby passes the following order

A14A1027. HERSCHEL G. BYRD v. THE STATE.

Upon consideration of the APPELLANT'S motion FOR PERMISSION TO WITHDRAW THE APPEAL in the above styled case, it is ordered that the motion is hereby GRANTED.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, July 11, 2014.*

*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.*

Stephen E. Costlow, Clerk.

1. THE ORDER THAT WAS PASSED IS A INSUFFICIENT;
 REINSTATED FOR REASONS AS FOLLOWS:
 THAT ORDER SHOULD BE VACATED AND APPEAL
 ORDER THAT WAS PASSED, APPELLANT SHOWS
 THAT WAS SUBMITTED AND THE RESULTING
 THAT WAS IN REGRETFUL REGARD TO THE MOTION
 JULY 11, 2014 PERTAINING TO THE SAID CASE,
 TO WITHDRAW APPEAL THAT WAS PASSED ON
 VACATE ORDER GRANTING APPELLANT'S MOTION
 HIS MOTION FOR RECONSIDERATION AND OR TO
 IN THE ABOVE STYLED CASE AND MAKES THIS
 COMES NOW, HERSCHER G. BYRD, PRO SE APPELLANT

MOTION FOR RECONSIDERATION AND OR TO
 VACATE ORDER GRANTING APPELLANT'S MOTION
 TO WITHDRAW APPEAL

STATE OF GEORGIA
 APPELLANT
 HERSCHER G. BYRD
 APPELLANT
 CASE NO. A11A1027
 STATE OF GEORGIA
 APPELLEE

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CLERK COURT OF APPEALS OF GA

HERSCHEL G. BYRD GDC. NO. 328776

II

RIVERBEND CORRECTIONAL FACILITY

196 LAYING FARM ROAD S.E.

MILLEDGEVILLE, GA. 31061

AUG 17, 2014

COURT OF APPEALS OF GEORGIA

47 TRINITY AVENUE SW, SUIT 501

ATLANTA, GEORGIA 30334

RE: HERSCHEL G. BYRD-V STATE OF GEORGIA

DOCKET NO. # A14A 1027

DEAR CLERK:

PLEASE FIND AND FILE THE ENCLOSED ORIGINAL

MOTION FOR RECONSIDERATION AND OR TO VACATE

ORDER GRANTING APPELLANT'S MOTION TO

WITHDRAW APPEAL WHICH CONSIST OF ⁽⁷⁾ PAGES

INCLUDING AFFIDAVIT AND CERTIFICATE OF

SERVICE. THUS ALSO FIND 2 COPIES OF

ORIGINAL MOTION AND 1 COPY OF ORDER PASSED

GRANTING MOTION TO WITHDRAW.

RESPECTFULLY

Herschel G. Byrd

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

7/29/14

KA Keri

To: Jeffrey Brazell

Docket Number: Style: Jeffrey Brazell v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rules 1(c), 30 (e) and 31 (c)
16. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).

For Additional information, please go to the Court's website at: www.gaappeals.us

STATE OF GEORGIA

IN THE COURT OF APPEALS OF GEORGIA

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Superior Court Case Number
12-CR-68088

Y.
ANTHONY T. BARNETT

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

APPEAL OF ORDER DENYING MOTION TO WITHDRAW GUILTY PLEA, VACATE SENTENCE, OR REDUCE SENTENCE

Comes now Anthony T. Barnett and moves this Court to Remand this Case or
Vacate this Case, For Failure to Prove Subject Matter Jurisdiction.

I. Jurisdictional Statement

This Court has Appellate Jurisdiction, the Notice of Appeal has been timely Filed
and a Copy is disclosed.

Procedural Back Ground AND Facts

The defendant sent the court on April 30th 2014 a Motion to withdraw Guilty Plea
Vacate Sentence, or Reduce Sentence. However ON July 15, 2014 the defendant obtained
an order denying the motion without hearing even after the defendant showed the
Court Georgia Law that Gives the Right to a hearing on a motion to withdraw Guilty Plea.
The defendant also sent in a Application for Rule Nisi and a production Order, However the
Motion was denied with out a hearing, or the Court Appointing Counsel For the defendant
ON appeal or For the motion to withdraw Guilty Plea. The Court nor the State
Proved Subject matter Jurisdiction on the Record even After it was Clearly a Ground
to Vacate the Conviction on the second part of the motion. Without Proff of
Jurisdiction this Conviction is Void.

Grounds For Appeal

1. Violation of Schlaug V. State 261 Ga. App. 303 (2003), When the defendant here Filed a Motion
to withdraw his guilty plea because it was Unintelligently, Not Knowing and not entered
Voluntary, the defendant also didnot understand the nature of the Charges and the Court
Failed to hold a hearing and exercise its discretion also see Banhi V State 252 Ga. App 475.
2. The Court Failed to Follow Forston V. State 272 Ga. 457 (2000) an advise the petitioner
of his right to Counsel to withdraw his guilty Plea. ALSO SEE Halbert V. Michigan —
545 U.S. 605 (2005) Affirming the defendants Right to Counsel in the First Appeal of Right, even
if the State treated First appeal as discretionary when a Conviction is based on a plea of Guilty.
3. The Court and the State Failed to Prove Subject matter Jurisdiction, of the Charges in question
and what Jurisdiction the court is under.
4. The Court Violated U.S. V Cotton, 535 U.S. 625 (2002) Jurisdiction is never Forfeited or Waived
Jurisdictional Challenges may be made at any time. The Court Here Failed to Prove Jurisdiction.

This 20th Day OF JULY 2014

Prepared by Willie F. Wright Jr

Print Anthony T. Barnett

Sign Dudley J. Court
Without Prejudice

STATE OF GEORGIA

V.

ANTHONY T. BARNETT

IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

12-CR-68088

NOTICE OF APPEAL

Comes now Anthony T. Barnett and gives Notice of Appeal.

GROUND FOR APPEAL

1. Violation of Schlaw V State 261 Ga. App. 303 2003, when the Defendant here Filed a motion to withdraw his guilty plea because it was UNintelligently Not Knowing and Not Voluntary. the defendant also did not understand the nature of the Charges and the Court Failed to hold a hearing and exercise its discretion, ALSO SEE *Banh V. State* 252 Ga. App 475.
2. The Court Failed to Follow *Forston V. State* 272 Ga, 457 (2000) and advise the petitioner of his right to Counsel to withdraw his guilty Plea. ALSO SEE *Hulbert V. Michigan* 545 U.S. 605 (2005). Affirming the defendants Right to Counsel in the First Appeal of Right, even if the state treated first appeal as discretionary when a conviction is based on a plea of guilty or Nolo Contendere.
3. The Court Failed TO prove subject Matter Jurisdiction, OF the Charges in question, and what Jurisdiction the Court is under.
4. The Court violated U.S. V. Cotton, 535 U.S. 625 (2002) Jurisdiction is Never Forfeited or waived. Jurisdictional Challenges may be made at any Time.

This 20th Day OF July 2014

Prepared by Power of Attorney

904756

W. H. Frank Wright JA

Defendant

Anthony T. Barnett

Adley T. Barnett

W. H. Frank Wright JA

Certificate of Service

This is to certify that I have this day served a true and correct copy of the within and foregoing document(s) upon the party(s) listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to below addresse(s).

District Attorney
David Cooke
601 Mulberry Street
P.O. Box 1015
Macon Ga, 31202

Judge
Howard Simms
601 Mulberry Street STE 310
Macon, Georgia, 31201

Clerk OF Court
Erica Woodford
601 Mulberry Street
Macon Ga 31202

This the 20th day of July, 2014.

Signature Dwight F. Powell

IN THE SUPERIOR COURT OF APPLING COUNTY
STATE OF GEORGIA

JEFFREY BRAZELL
Defendant

CASE NO. C08-11-163

.vs.

THE STATE OF GEORGIA

Court Copy

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NOTICE OF APPEAL

COMES NOW JEFFREY BRAZELL, THE
DEFENDANT IN THE ABOVE-STYLED ACTION
AND GIVES THIS COURT REQUISITE NOTICE
THAT DEFENDANT WILL FILE AN APPLICATION
FOR DISCRETIONARY APPEAL PURSUANT TO
O.C.G. A§ 5-6-35, FOR THIS COURTS
DENIAL OF HIS MOTION FOR LEAVE TO FILE
AN OUT OF TIME APPEAL JUNE 28, 2014.
THIS 12th DAY OF JULY 2014

RESPECTFULLY SUBMITTED

Prepared By:
Daniel W. Taylor 1000332837
Daniel W. Taylor

Jeffrey Brazell
JEFFREY BRAZELL
JOHNSON STATE PRISON H-2
P.O. BOX 344
WRIGHTSVILLE, GA. 31096

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

Date: July 21, 2014

To: Mr. Elliott J. Franklin, GDC149083 J1-147, Washington State Prison, 13262 Highway 24, East, Davisboro, Georgia 31018

Docket Number: A14A1607 **Style:** Elliott J. Franklin v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **An improper Certificate of Service accompanied your document(s). Rule 6**
5. **Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other

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COURT OF APPEALS OF GA

ELIOTT JAY FRANKLIN, APPELLANT,
GDC #149083, APPELLANT,
VS.
THE STATE OF GEORGIA

BRIEF IN SUPPORT OF MOTION TO REVOKE HIS MOTION TO SUPPRESS AND
MOTION TO VACATE A VOID (ADULTERIAL AND SEVERANCE

COPIES NOW APPELLANT ELIOTT JAY FRANKLIN, IN THE ABOVE-STYLED ACTUAL AFFIRMATIVELY
CONTENDING WITH SUPPORTING CASE LAW. THE SAID APPELLANT CONVICTION AND SEVERANCE IS
VOID PURSUANT TO O.C.G.A. §§ 17-5-30, 17-9-4 AND SHOULD BE VACATED. DUE TO THE ABSENCE
OF APPELLANT'S CONSTITUTIONAL ENTITLEMENT OF DUE PROCESS OF LAW.

APPELLANT ARGUES THAT SAID CAUSE OF THE DUE PROCESS VIOLATION, AS BASED UPON THE
FACT THAT APPELLANT JAY FRANKLIN'S CONVICTION AS PARTIALLY DEFECTED, AFFECTING THE SUBSTANCE
AND REAL MERIT FOR FAILURE TO CHARGE ALL NECESSARILY ESSENTIAL ELEMENTS AND ACT FOR OFFENSE
CHARGED. THIS REQUIRES THE JUDICIAL TO VOID AND ANNUL ANY CONVICTION TO SUPPORT A CONVICTION. *METRY*
V. STATE, 507 S.E.2D (1988); *SMITH V. HARDICK*, 409 S.E.2D 198 (1995).

PART ONE

STATEMENT OF FACTS AND PROCEDURAL HISTORY

APPELLANT ELIOTT FRANKLIN WAS RIDING HIS BICYCLE IN COVINGTON, GA. WHEN HE CROSSED
A ROAD AT A STOP SIGN WHERE OFFICER PHILIP BRADFORD OF THE COVINGTON POLICE DEPARTMENT
HAD STOPPED. OFFICER BRADFORD TESTIFIED THAT HE THOUGHT IT STRANGE THAT MR. FRANKLIN DID NOT
GREET HIM BY NAME ALTHOUGH IT WAS DARK. TRIAL TRANSCRIPT, HEREINAFTER T. AT P. 25, LKS. 15-
25.

OFFICER BRADFORD CONTINUED TO WATCH MR. FRANKLIN AND SAW HIM LOOKING BACK OVER HIS
SHOULDER AT HIS CAR. T. 27, LKS. 4-6. OFFICER BRADFORD DECIDED TO FOLLOW MR. FRANKLIN AND
NEXT SAW HIM CROSS A ROAD AND GO TO A HOUSE. T. 27, LKS. 18-19.

OFFICER BRADFORD DROVE BY AT 25 M. P. H. AND MR. FRANKLIN, WHO WAS IN THE YARD
OF A RESIDENCE WITH SOME OTHER PEOPLE. WATCHED THE POLICE CAR CRAWL BY. T. 28, LKS. 8-13.
THE OFFICER, WHO STARTED HIS SURVEILLANCE BECAUSE MR. FRANKLIN DID NOT LOOK AT HIM
(TURNED A LIGHT ON OF SUSPICION IN MY HEAD. T. 27, LKS. 10-11), NOW PARADOXICALLY BECAME
SUSPICIOUS (MY SUSPICIONS WERE ARISED [sic] T. 29, LKS. 2) WHEN MR. FRANKLIN DID LOOK AT
HIM. SO HE DECIDE TO CONTINUE HIS SURVEILLANCE BY DRIVING OUT OF SIGHT. (SO IT DON'T LOOK

SUSPICIOUS T. 29, LKS. 4) TURNING AROUND AND DRIVING BACK BY THE RESIDENCE. (SO IT FINDING MR.
FRANKLIN AT THE HOUSE. OFFICER BRADFORD WENT LOOKING FOR HIM.

THREE MINUTES AFTER OFFICER BRADFORD FIRST SAW MR. FRANKLIN CROSSING THE STREET IN FRONT OF HIM. (T. p. 29, IN. 16. T. 31, INS. 1-2) DURING WHICH TIME MR. FRANKLIN HAD BEEN UNDER ALMOST CONSTANT SURVEILLANCE BY OFFICER BRADFORD, AN ALARM WENT OFF AT A CAR LOT NEAR THE RESIDENCE WHERE MR. FRANKLIN HAD BEEN VISITING, ALTHOUGH UNITS WERE DISPATCHED TO CHECK OUT THE ALARM. OFFICER BRADFORD NEITHER JOINED THEM NOR REPORTED TO THEM THAT MR. FRANKLIN MIGHT BE A SUSPECT: (T. 31. 1-16) RATHER HE CONTINUED TO DRIVE AROUND LOOKING FOR MR. FRANKLIN BECAUSE HE WAS JUST THINKING... WHAT'S HE DOING. T. 30. INS. 12-16.

MEANWHILE, THE OFFICERS WHO WENT TO THE CAR LOT, SPENT FIVE MINUTES THERE ASSURING THEMSELVES THAT EVERYTHING WAS SUBJECT, AND THEN LEFT. T. 31, INS. 1-8. AT THE TIME OF TRIAL IT WAS STILL UNKNOWN WHETHER SOMETHING HAD TRIGGERED THE ALARM OR IT HAD SIMPLY MALFUNCTIONED. T. 36, INS. 16-26.

A FEW MINUTES LATER OFFICER BRADFORD LOCATED MR. FRANKLIN PUSHING HIS BICYCLE DOWN A LITTLE USED RAILROAD TRACK, WHICH PEOPLE FREQUENTLY USE FOR FOOT TRAFFIC. (T. 31-32. p. 47. INS. 16-19) BECAUSE IT HAD A FLAT TIRE. THEN THE OFFICER PROCEEDED TO SHINE A SPOTLIGHT ON MR. FRANKLIN (T. 31. IN. 25) AND CALL FOR BACKUP. T. 32. INS. 4-5.

AFTER ASCERTAINING THAT THE TIRE WAS FLAT OFFICER BRADFORD TOOK THE BIKE OUT OF MR. FRANKLIN'S HANDS, PUT THE KICK STAND DOWN AND COMMANDED MR. FRANKLIN TO "LEAVE THE BIKE DOWN", ALLEGEDLY BECAUSE HE FEARED MR. FRANKLIN MIGHT THROW THE BICYCLE AT HIM. ALTHOUGH TO THIS POINT MR. FRANKLIN HAD DONE NOTHING MORE THAN RIDE, THEN PUSH, A BICYCLE, NOT LOOK, THEN LOOK AT THE PATROL CAR AND DECLINE TO ANSWER THE OFFICER'S QUESTIONS ABOUT WHERE HE WAS GOING OTHER THAN TO SAY HIS TIRE WAS FLAT. T. 32-33.

NEXT OFFICER BRADFORD ANNOUNCED THAT HE WAS GOING TO PERFORM A PAT-DOWN SEARCH. T. 33, INS. 7-23.

VIEWING THE EVIDENCE MOST FAVORABLY TO THE STATE, WHEN THESE HAPPENED IS THAT MR. FRANKLIN PREFERRED NOT TO BE SEARCHED, AND EVIDENCED THIS INTENTION BY RUNNING, UNFORTUNATELY FOR HIM, INTO OFFICER BYRD WHO TACKLED HIM. A SCUFFLE ENSUED WHICH ENDED WITH MR. FRANKLIN BEING SPRAYED WITH PEPPER SPRAY. HANDCUFFED AND SEARCHED. IN HIS POCKETS WERE FOUND SUSPECTED MARIJUANA AND COCAINE, AND, DEPENDING ON WHOM ONE BELIEVES, EITHER "ABOUT A HUNDRED AND THIRTY DOLLARS," (OFFICER BRADFORD. T. 41. INS. 7-8) OR "SIXTEEN HUNDRED AND SOMETHING DOLLARS," (MR. FRANKLIN. T. 41. INS. 7-8)

MR. FRANKLIN WAS TRIED BY A NEWTON COUNTY JURY ON JULY 16, 2002 AND CONVICTED OF POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE, POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE, AND OBSTRUCTION OF AN OFFICER, MISDEMEANOR. IT APPEARS THAT THE NEWTON COUNTY PUBLIC DEFENDER'S OFFICE FILED A MOTION FOR NEW TRIAL, APPELLANT WAS REPRESENTED BY HIS TRIAL ATTORNEY AT THE MOTION FOR NEW TRIAL, AND FILED A DIRECT APPEAL. AT ANY RATE, CURRENT COUNSEL WAS APPOINTED TO HANDLE THE APPEAL BECAUSE INEFFECTIVE ASSISTANCE OF COUNSEL WAS RAISED.

STATEMENT OF JURISDICTION

THIS COURT, RATHER THAN THE SUPREME COURT OF GEORGIA, HAS JURISDICTION OF THIS CASE ON APPEAL BASED UPON ITS JURISDICTION OVER ALL CASES NOT RESERVED TO THE SUPREME COURT OR CONFERRED ON OTHER COURT BY LAW AS PROVIDED BY ARTICLE VI, SECTION V, PARAGRAPH 3 OF THE CONSTITUTION OF GEORGIA OF 1983.

ENUMERATION OF ERRORS

1. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO SUPPRESS SINCE APPELLANT'S PRESENCE NEAR THE SCENE OF A BURGLAR ALARM, HIS ACTIVITIES JUST PRIOR TO THE ALARM, AND HIS NON-RESPONSIVE QUERIES DURING A TIER-ONE ENCOUNTER GAVE THE OFFICER NO REASONABLE ARTICULABLE SUSPICIONS TO DETAIN APPELLANT AND INVESTIGATE FURTHER.
2. MANIFEST INJUSTICE
3. DELAY IN MAKING AN ARREST
4. CHARGE THE JURY - BURDEN-SHIFTING OF PRESUMPTION AND INFERENCE
5. INEFFECTIVE ASSISTANCE OF COUNSEL

ARGUMENT AND CITATION OF AUTHORITY

1. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION TO SUPPRESS SINCE APPELLANT'S PRESENCE NEAR THE SCENE OF A BURGLAR ALARM, HIS ACTIVITIES JUST PRIOR TO THE ALARM, AND HIS NON-RESPONSIVE QUERIES DURING A TIE-ONE ENCOUNTER GAVE THE OFFICER NO REASONABLE ARTICULABLE SUSPICION TO DETAIN APPELLANT AND INVESTIGATE FURTHER.

A MOTION TO SUPPRESS THE SEARCH AND SEIZURE OF EVIDENCE WAS FILED BY TRIAL COUNSEL AND DENIED BY THE COURT ON JULY 18, 2001. TRIAL COUNSEL REVIEWED HIS OBJECTION AT TRIAL T, 5, INS. 13-19.

AS THE COURT IS WELL AWARE, THERE ARE THREE LEVELS OF CITIZEN POLICE ENCOUNTERS,

BUT WE NEED CONCERN OURSELVES HERE WITH ONLY TWO, THE CONSENSUAL ENCOUNTER AND

WHAT HAS COME TO BE KNOWN AS A TERRY STOP. IN TERRY V. OHIO, 392 U.S. 1, 16, 88 S.

AT 1868, 20 L. ED. 2D 89 (1968), THE COURT OBSERVED THAT "WHATEVER A POLICE OFFICER RECSSTS

AN INDIVIDUAL AND RESTRICTIONS HIS FREEDOM TO WALK AWAY HE HAS SEIZED THAT PERSON, BUT

COURT DID NOT DISCUSS THE EXACT POINT AT WHICH TERRY WAS SEIZED. THE COURT SAID, HOWEVER,

IN FOOTNOTE NUMBER 16 ON PAGE 19 OF THE OPINION, THAT ALL CONSTITUTIONAL BELIEFS OF AN OFFICER

AND A CITIZEN DO NOT INVOLVE A SEIZURE. ONLY WHEN THE OFFICER, BY MEANS OF PHYSICAL FORCE

OR SHOWS OF AUTHORITY, HAS IN SOME WAY RESTRICTED THE LIBERTY OF A CITIZEN MAY BE CONSIDERED

THAT A SEIZURE HAS OCCURRED. A CONSENSUAL ENCOUNTER MIGHT RANGE FROM A POLICE

OFFICER AND A CITIZEN DISCUSSING THE BREVES CURRENT SITUATION TO HIS OFFICER QUESTIONING SOMEONE

WHOM THE OFFICER BELIEVES MAY HAVE INFORMATION REGARDING CRIMINAL ACTIVITY. AT ANY

RATE, THE CITIZEN IS FREE TO LEAVE AT ANY TIME. SEE GENERALLY, ESPOSITO V. STATE, 191 GA.

APP. 761 (1989).

WHAT THE CITIZEN REASONABLY BELIEVES HE IS NOT FREE TO LEAVE, A TERRY STOP HAS OCCURRED.

STATE V. LOBBETT, 205 GA. APP. 554 (1992). AN ORDER FOR THE HEIF DETENTION AND PUT-DOWN FOR OFFICER SAFETY TO BE LEGALLY JUSTIFIABLE, THE OFFICER MUST HAVE AN ARTICULABLE SUSPICION THAT THE CITIZEN IS ENGAGED IN CRIMINAL ACTIVITY. SEE, E.G., DUNN V. STATE, 252 GA. APP. 286 (2001).

THERE IS AMPLE EVIDENCE THAT MR. FRANKLIN REASONABLY BELIEVED HE WAS NOT FREE TO LEAVE. WHEN POLICE OFFICER, AFTER SEEING SOMEONE CROSS THE STREET ON HIS BICYCLE, TURNS AROUND AND DRIVES BY SLOWLY AND FINALLY RETURNS AND SHINES A POLICE SPOTLIGHT ON THAT PERSON. A REASONABLE PERSON WOULD NOT BELIEVE HE IS FREE TO LEAVE. CERTAINLY WHEN THAT OFFICER COMES UP AND FORCIBLY QUESTIONS THE CITIZEN CONCERNING WHERE HE'S COMING FROM AND GOING TO, TAKES CONTROL OF THE CITIZEN'S PERSONAL PROPERTY AND TELLS HIM

not to touch it, he has been seized. Finally, when the officer announces he is going to conduct a non-consensual pat-down search of the citizen's person, he knows he isn't free to leave, which Mr. Franklin demonstrated by the airerity with which he allegedly left.

Therefore, for the ensuing capture and search of Mr. Franklin to be permissible, Officer Bradford needed an articulable and reasonable suspicion that he was engaged in criminal activity, as in Holmes v. State, supra, the officer here observed nothing approaching criminal activity on Appellant's part, and nothing about the ensuing interrogation, leaving aside the fact that it was the product of an illegal detention to begin with, gave any indication otherwise. The officer reportedly asked Mr. Franklin where he was coming from, where he was going and why he was on the railroad track-- where he had every right to be. Mr. Franklin knew that the officer knew where he was coming from because the officer had been following him for ten minutes, and he reasonably replied in response to the other questions that his tire was flat--since he was coming back in the direction he had traveled--and tried to get the officer to feel the tire for himself if he had any doubt.

All Mr. Franklin was guilty of at this point was being in the area where a non-crime had occurred, and to be under the surveillance of a "VIPER" unit officer who was determined to question and search him regardless. No one knew what had set off the burglar alarm; it could have been a dog or a bird or simply malfunction. What is certain is that the officers who responded to the call spent five minutes there, determined that nothing was disturbed, and left, apparently concluding the incident involved no other police work.

Officer Bradford said the state attempt to piggy-back this red herring onto their initial "baby" rationale for surveillance of a citizen, i.e., if you don't say howdy--do when I say howdy--do, you're a suspicious character who needs to be investigated and harassed.

where as here, and in Duke v. State, 347 Ga. App. 512 (2000) there is no articulable suspicion of criminal activity, a citizen is within his rights to flee and the fact of his flight is not a crime. And if he is apprehended he is justified in using reasonable force to resist, since the officer was not involved in the lawful discharge of their duties "Woodward v. State, 219 Ga. App. 329 (1995). Hence both the arrest and fruits thereof, the contraband, should have been suppressed by the trial court, and all of Appellant's convictions should be reversed.

1. Officer Bradford couldn't have had any plausible reasons for believing Mr. Franklin had set off the alarm if the car lot building since he was watching Mr. Franklin and knew Mr. Franklin was watching him, would anyone in that situation think "I'll just run over here and try to break in this building before the cop drives back by."

2. INTERESTING, THERE IS A LINE OF BICYCLE CASES WHERE THIS COURT HAS HELD THAT BICYCLISTS MAY NOT BE STOPPED EVEN THOUGH THEY ATTEMPT TO AVOID CONTACT WITH THE POLICE. SEE E.G., ZAC RE J.T., 239 GA. APP. 756 (1999); ZAC RE F.B., 237 GA. APP. 824 (1999).

2. MANIFEST INJUSTICE

IT IS WELL ESTABLISHED IN GEORGIA THAT THE TEST FOR MANIFEST INJUSTICE WILL BY NECESSITY VARY FROM CASE TO CASE. ARNOLD V. STATE, NO. S1211895, NOVEMBER 19, 2012. THE RECORD IN THIS CASE INCLUDES EVIDENCE THAT THE STATE'S MAIN WITNESS STATEMENT OR ALLEGATIONS WERE NOT WITH TRUTHFULNESS. APPELLANT ON MAY 20, 2000 WERE ARRESTED AND DETAINED WITHOUT THE MANDATED EXERCISE OF ACQUIRING PERSONAL JURISDICTION. UPON ARREST WARRANTS BEING ISSUED BY ISSUING OFFICER LEX (10) DAYS AFTER THE FACT AND FAILED TO PROVIDE THE MAGISTRATE WITH A SUFFICIENT SHOWING OF PROBABLE CAUSE AS REQUIRED BY GEORGIA'S BILL OF RIGHTS ART. 1, SEC. 1, PAR. XIII AND IV AMENDMENT OF THE UNITED STATES CONSTITUTION.

THERE ARE STATUTORY REQUIREMENTS THAT PROVIDE THE EXERCISING OF THE CONSTITUTION OF THIS STATE AND UNITED STATES CONSTITUTION WERE ACQUIRING JURISDICTION OVER PERSONS CHARGED WITH THE COMMISSION OF A CRIME. THE PATTERN UTILIZED UPON ARREST AS SET OUT IN GEORGIA'S LAW DOES NOT MEET THE CONSTITUTIONAL REQUIREMENTS FOR THE EXERCISING THE CONSTITUTION, THE PREDICATED UPON ACTS OF PERJURY OF THE ISSUING OFFICER.

IF HAD THE MAGISTRATE PERFORMED AN INDEPENDENT EXAMINATION OF THE CONTENTS SET OUT IN THE AFFIDAVITS AND LAW ENFORCEMENT ~~CRIMINAL~~ CRIMINAL WARRANT APPLICATIONS OF PROBABLE CAUSE SUPPLEMENTAL USED TO OBTAIN THE WARRANT; THEN IT WOULD HAVE BEEN APPARENT THAT THE ALLEGATIONS WERE NOT WITH TRUTHFULNESS. THE CLAIM OF THE ABOVE APPELLANT, PURSUANT TO HIS BRIEF IN SUPPORT OF HIS MOTION TO AMEND HIS MOTION TO SUPPRESS AND MOTION TO VACATE A VOID CONVICTION AND SENTENCE, ARE TO BE DETERMINE UPON THE SHOWING OF CONSTITUTIONAL VIOLATION OF WHICH THE APPELLANT IS ENTITLED UNDER THE FOURTEENTH AMENDMENT, GIVING PROTECTIONS OF THE FOURTH, FIFTH, SIXTH, EIGHTH, NINTH, AND GEORGIA CONSTITUTION AS THEY RELATE TO AFOREMENTIONED CONSTITUTION. THE APPELLANT ALLEGE THAT PERSONAL JURISDICTIONS HAVE NOT BEEN ACQUIRED AND TO FAILURE IN FALSE IMPRISONMENT OF THE APPELLANT. APPELLANT ALLEGED THAT THE OFFICER CONCEALED EVIDENCE AND PRESENTED FALSE TESTIMONY THAT CAUSE APPELLANT INCARCERATION.

THE RECORD IN THIS CASE INCLUDES EVIDENCE THAT STATE'S MAIN WITNESS AFFIDAVIT CONTAINED NEITHER INFORMATION PROVIDING THAT BASIS FOR THE AFFIANT'S BELIEF NOR ANY AFFIRMATIVE ALLEGATION THAT THE AFFIANT HAD PERSONAL KNOWLEDGE OF THE CIRCUMSTANCES SURROUNDING THE COMMISSION OF CRIME OF MAKING A FALSE REPORT. O.C.G.A. § 16-10-20. THUS, THE

Magistrate could not possibly have conducted the independent assessment required by U.S. Const. Ament. IV of the probability that Mr. Franklin committed the crime charged. It also held that a subsequent indictment did not retroactively provide probable cause for an arrest that had already taken place.

The state failed to meet the burden of providing probable cause, for the unlawful stop conducted on 5/20/2000 at 9:20 p.m., by Officer Phillip Bradford of the Covington Police Department by failure to find Mr. Franklin guilty beyond a reasonable doubt, for the basis of the stop to wit; L'omission burglar alarm at a car lot, in Criminal Case No. 2000CR955.1. Officer Bradford's conduct as well as District Attorney Office in this case is a clear indication that Mr. Franklin was "railroaded" and that manifest injustice occurred in this case. Mr. Franklin further contends that review is necessary to further develop the fact surrounding this obvious misconduct which bring into question the trustworthiness of the outcome in this case.

On July Term, a Grand Jury sitting in the Newton County Judicial Circuit charge Bill of Indictment were three counts, possession of cocaine with intent to distribute, possession of marijuana with intent to distribute, and obstruction of an officer (felony), but that portion of the possession of cocaine with intent to distribute, possession of marijuana with intent to distribute statute was neither charged in the indictment nor included in the jury instruction.

Franklin contends that O.C.G.A. § 16-16-20 is unconstitutionally vague under Article I, Section 1, Paragraph 1, of the Georgia ~~and~~ Constitution of 1998. For the statute to withstand such challenge, it must "convey sufficiently definite warning as to the proscribed conduct when measured by common understanding, [cites.], and provide explicit standards to those who enforce the law in order to prevent arbitrary enforcement. [cites.] *Bagby v. State*, 274 Ga. 222-223 (1), (552 S.E. 2d 807 (2001)).

A.

PROBABLE CAUSE FOR ARREST - GENERAL PRINCIPLES

An officer may conduct a warrantless arrest as long as there is "probable cause to believe that the suspect has committed or is committing a crime." *United States v. Martinez-Molina*, 64 F.3d 719, 726 (1st Cir. 1995) (citing *United States v. Watson*, 423 U.S. 411, 416-18, 96 S.Ct. 820, 824-25, 46 L.Ed. 2d 598 (1976)); *Gerstein v. Pugh*, 420 U.S. 103, 113-14, 95 S.Ct. 854, 862-64, 43 L.Ed. 2d 54 (1975)). The inquiry is "not whether there was a warrant or whether there was time to get one, but whether there was probable cause for the arrest." *Watson*, 423 U.S. at 417, 96 S.Ct. at 824.

TO ESTABLISH PROBABLE CAUSE, THE GOVERNMENT MUST DEMONSTRATE "AT THE TIME OF THE ARREST, THE FACTS AND CIRCUMSTANCES KNOWN TO THE ARRESTING OFFICERS WERE SUFFICIENT TO WARRANT A PRUDENT PERSON AS BELIEVING THAT THE DEFENDANT HAD COMMITTED OR WAS COMMITTING AN OFFENSE." UNITED STATES V. CLEVELAND, 106 F. 3d 1056, 1060 (1st Cir. 1997) (citing UNITED STATES V. TORRES-MALDONADO, 14 F. 3d 95, 105 (1st Cir.), cert. denied, 513 U.S. 870, 115 S.Ct. 193, 130 L.Ed. 2d 125 (1994)); SEE ALSO BECK V. OHIO, 379 U.S. 89, 91, 85 S.Ct. 223, 225-26, 13 L.Ed. 2d 142 (1964). PROBABLE CAUSE IS TO BE DETERMINE BASED ON THE COLLECTIVE KNOWLEDGE AND INFORMATION OF ALL THE OFFICERS INVOLVED. "UNITED STATES V. PARADIS, 802 F. 2d 553, 557 (1st Cir. 1986) citing UNITED STATES V. ROSE, 731 F. 2d 1337, 1342-43 (8th Cir.), cert. denied, 469 U.S. 931, 105 S.Ct. 326, 83 L.Ed. 2d 263 (1984)).

TO BE SURE, EVIDENCE RECOVERED AFTER AN ARREST MAY NOT FROM THE BASIS OF PROBABLE CAUSE FOR THAT ARREST. SEE UNITED STATES V. DIALLO, 29 F. 3d 23, 26 (1st Cir. ~~1994~~ 1994) (citing MARYLAND V. BARRISON, 480 U.S. 79, 85, 107 S.Ct. 1013, 1017, 94 L.Ed. 2d 72 (1987)); SEE ALSO SMITH V. OHIO, 494 U.S. 541, 543, 110 S.Ct. 1288, 1290, 108 L.Ed. 2d 464 (1990) ["IT IS AXIOMATIC INCIDENT SEARCH MAY NOT PRECEDE AN ARREST AND SERVE AS PART OF ITS JUSTIFICATION"] (quoting SIBRON V. NEW YORK, 392 U.S. 40, 63, 88 S.Ct. 1889, 1902, 20 L.Ed. 2d 417 (1968)). HOWEVER, WHETHER A FORMAL ARREST OCCURRED PRIOR TO OR FOLLOWING "QUICKLY ON THE HEELS" OF THE CHALLENGED SEARCH DOES NOT AFFECT THE VALIDITY OF THE SEARCH SO LONG AS THE PROBABLE CAUSE EXISTED PRIOR TO THE SEARCH. SEE RAWLINGS V. KENTUCKY, 448 U.S. 98, 111, 100 S.Ct. 2556, 2564-65 L.Ed. 2d 633 (1980).

B.

APPELLANT'S RESIST. OF HIS ILLEGAL DETAINMENT AND ARREST WAS LAWFUL AND DOES NOT CURE THE SIMILARLY ILLEGAL SEARCH AND SEIZURE OF APPELLANT'S PERSON.

APPELLANT'S LAWFUL RESISTANCE TO THE ILLEGAL DETAINMENT BY THE COVINGTON POLICE DEPARTMENT OCCURRED SUBSEQUENTLY TO BEING ARRESTED FOR ANY REASON WHATSOEVER AND WAS ENTIRELY JUSTIFIED AND SUPPORTED BY GEORGIA LAW. SEE WYMAN V. STATE, 236 GA. APP. 98 (1999) WHERE THE COURT HELD THAT A LAW ENFORCEMENT OFFICER IS NOT DISCHARGING HIS LAWFUL DUTY WHEN HE ARRESTS AN INDIVIDUAL WITHOUT PROBABLE CAUSE OR WHEN HE APPROACHES AND QUESTION AN INDIVIDUAL WITHOUT SPECIFIC, ARTICULABLE FACTS SUFFICIENT TO GIVE RISE TO A REASONABLE SUSPICION OF CRIMINAL CONDUCT, BECAUSE, WHERE CIRCUMSTANCES DO NOT PROVIDE AN OFFICER WITH ARTICULABLE SUSPICION THAT THE LAW HAS BEEN OR IS ABOUT TO BE VIOLATED, THE OFFICER'S ACT OF DETAINING AND QUESTIONING AN INDIVIDUAL IS NOTHING MORE THAN A POLICE-CITIZEN ENCOUNTER OUTSIDE THE SCOPE OF OF THE OFFICER'S OFFICIAL POLICE DUTIES. Id.

FURTHER, BECAUSE A LAW ENFORCEMENT OFFICER WHO CONDUCTS AN UNLAWFUL ARREST IS NOT LAWFULLY DISCHARGING HIS DUTY, A CITIZEN WHO RESISTS IS NOT GUILTY OF A VIOLATION OF LAW. STATE V. EALUM, 283 GA. APP. 799 (2007).

FINALLY, DEFENDANT SHOWS THAT THE SANCTION FOR AN ILLEGAL ARREST IS THE EXCLUSION OF ALL EVIDENCE OBTAINED AS A RESULT THEREOF. KITE V. STATE, 178 GA. APP. 678 (1986)

BASED ON THE FOREGOING, APPELLANT'S MOTION TO SUPPRESS SHOULD HAVE BEEN GRANTED BY THE COURT AND ALL EVIDENCE SEIZED BY THE STATE OF GEORGIA AS A RESULT OF ITS ILLEGAL DETAINMENT, ARREST, SEARCH AND SEIZURE OF DEFENDANT'S PERSON, AND ANY FRUITS THEREOF, SHOULD BE SUPPRESSED AND NOT INTRODUCED, ADMITTED OR OTHERWISE ALLOWED INTO THE RECORD AT THE TRIAL OF DEFENDANT'S CASE.

FOR SUCH OTHER AND FURTHER RELIEF AS THE COURT DEEMS JUST AND PROPER.

3. DELAY IN MAKING AN ARREST

APPELLANT ON MAY 20, 2000 WERE ARRESTED AND DETAINED WITHOUT THE MANDATED EXERCISE OF ACQUIRING PERSONAL JURISDICTION. UPON ARREST WARRANTS BEING ISSUED BY ISSUING OFFICER TERC (10) DAYS AFTER THE FACT AND FAILED TO PROVIDE THE MAGISTRATE WITH A SUFFICIENT SHOWING OF PROBABLE CAUSE AS REQUIRED BY GEORGIA'S BILL OF RIGHTS ART. 1, SEC. 1, PAR. XIII AND IV AMENDMENT OF THE UNITED STATES CONSTITUTION.

IF A DEFENDANT IS ARRESTED WITHOUT A WARRANT, HE MUST BE BROUGHT BEFORE MAGISTRATE WITHOUT DELAY AND WITHIN A REASONABLE TIME. THE STATUTE PROVIDES THAT IF THE ACCUSED IS NOT CARRIED BEFORE A MAGISTRATE WITHIN 48 HOURS OF HIS WARRANTLESS ARREST, HE SHALL BE RELEASED. O.C.G.A. 8-17-4-62.

WHILE IT IS OFTEN SAID THAT AN OFFICER IS UNDER A DUTY TO ARREST A DEFENDANT IMMEDIATELY WITHOUT A WARRANT WHERE A CRIME IS COMMITTED IN HIS PRESENCE. YANCEY V. FIDELITY & CAS. CO. OF N.Y., 96 GA. APP. 476, 478. 100 S.E. 2D 653 (1957), IT IS ESTABLISHED IN GEORGIA, AND UNDER THE FEDERAL CONSTITUTION, THAT A DEFENDANT HAS NO GENERAL RIGHT TO AN IMMEDIATE ARREST. KORAN V. U.S., 469 F. 2D 1071 (5TH CIR. 1972); BLACKWELL V. STATE. 139 GA. APP. 477, 478. 228 S.E. 2D 612 (1976). THE UNITED STATES SUPREME COURT HAS HELD ~~THAT~~ THAT THE SIXTH AMENDMENT RIGHT TO A SPEEDY TRIAL DOES NOT APPLY UNTIL THE DEFENDANT HAS BEEN INDICTED OR ARRESTED. U.S. V. MARION, 404 U.S. 307. 92 S. CT. 455. 30 L. ED. 2D 468 (1971). HOWEVER, IN UNITED STATES V. LOVASCO, 431 U.S. 783. 97 S. CT. 2044. 52 L. ED. 2D 752 (1977), THE COURT HAS ACKNOWLEDGED THAT THE DUE PROCESS CLAUSE "HAS A LIMITED ROLE TO PLAY IN PROTECTING AGAINST OPPRESSIVE DELAY." IF SUCH A DUE PROCESS VIOLATION IS ASSERTED AND THERE IS "PROOF OF ACTUAL PREJUDICE" THEN IT IS SAID THAT THE DUE PROCESS CLAIM IS RIPE FOR ADJUDICATION, BUT THIS DOES NOT MAKE THE CLAIM AUTOMATICALLY VALID. U.S. V. LOVASCO, 431 U.S. 783. 97 S. CT. 2044. 52 L. ED. 2D 752 (1977)

"MOTION FOR NEW TRIAL" WAS FILED SEPTEMBER 11, 2002 IN NEWTON COUNTY SUPERIOR COURT. THE MOTION FOR NEW TRIAL WAS HEARD FOURTEEN MONTHS LATER ON NOVEMBER 4, 2003 AND THE MOTION WAS DENIED FOLLOWING THE HEARING. TRIAL ATTORNEY, SUPPOSEDLY FILED A NOTICE OF APPEAL TO THE COURT OF APPEALS OF GEORGIA ON DECEMBER 1, 2003. WHAT TRIAL COURT ERRORS WERE HE GOING TO ASSERT TO THE APPELLATE COURT WITHOUT REVIEWING THE TRIAL TRANSCRIPT. AS YOU ARE AWARE ALL GROUNDS MUST BE ASSERTED AT THE EARLIEST POSSIBLE OPPORTUNITY.

ZACRODINATE TRANSCRIPT DELAY

(B.)

AND LONG COMPROMISEMENT PRIOR TO TRIAL MAY HAVE A DESTROYITIVE EFFECT ON A DEFENDANT'S RIGHTS AND THE (1) SOCIETY HAS AN INTEREST IN THE PROMPT TRIAL OF THOSE CHARGED WITH CRIME. SUPREME COURT SAID THAT THE RIGHT TO A SPEEDY TRIAL IS DIFFERENT FROM OTHER CONSTITUTIONAL RIGHTS AND BARKER V. WILCOX, 407 U.S. 514, 92 S. CT. 2182, 33 L. ED. 2D 101 (1972), THE UNITED STATES (2) A DELAY MAY WORK TO THE DEFENDANT'S BENEFIT, (3) THE RIGHT TO A SPEEDY TRIAL AS A VAGUE CONCEPT THAT OTHER PROCEDURAL RIGHTS.

AND ADDITION TO LIMITATIONS OF PROSECUTORIAL JURISDICTION BY GEORGIA STATUTES WHICH WERE DISCUSSED IN THE LAST SECTIONS, A DEFENDANT HAS A BROADER THOUGH LESS PRECISE CONSTITUTIONAL RIGHT OF A SPEEDY TRIAL UNDER BOTH THE UNITED STATES CONSTITUTION, 11TH AMEND. VI, AND GEORGIA CONSTITUTIONAL. GA. CONST. 1983, ART. 1, § 11 XI. THE FEDERAL CONSTITUTIONAL SIXTH AMENDMENT PROVISION FOR A SPEEDY TRIAL APPLIES TO STATE PROSECUTIONS THROUGH THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT. KILPATRICK V. ROBERTS, 386 U.S. 213, 87 S. CT. 988, 18 L. ED. 2D 1 (1967). THE RIGHT TO A SPEEDY TRIAL BEGINS TO RUN AT THE TIME OF ARREST OR WHEN FORMAL CHARGES ARE BROUGHT, WHICH EVER IS EARLIER. ROSEMAN V. STATE, 263 GA. 730, 731 (11), 438 S. E. 2D 626 (1994).

GENERAL RIGHT TO SPEEDY TRIAL

(A.)

A DEFENDANT IS ENTITLED TO A DISMISSAL OF HIS INDICTMENT WHERE THE DELAY IS TAKEN BY THE PROSECUTOR AS AN INTENTIONAL DEVICE TO GAIN TACTICAL ADVANTAGE OVER THE ACCUSED. U.S. V. MARION, 404 U.S. 307, 324, 92 S. CT. 455, 30 L. ED. 2D 468 (1971). APPELLANT ASSERTED THAT THE DELAYING CAUSE SUBSTANTIAL PREJUDICE TO THE DEFENDANT'S RIGHT TO A FAIR TRIAL. THE GEORGIA COURT HAS EVALUATED SUCH A DELAY BY THE BARKER V. WILCOX, 407 U.S. 514, 92 S. CT. 2182, 33 L. ED. 2D 101 (1972).

DEFENDANT WAS CONSTITUTIONALLY ENTITLED TO APPOINTMENT OF NEW COUNSEL TO RAISE A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; TRIAL COUNSEL COULD NOT REASONABLY BE EXPECTED TO ASSERT OR ARGUE HIS OWN INEFFECTIVENESS, GIVEN CONFLICT OF INTEREST, AND DEFENDANT COULD NOT ASSERT A PRO-SE CLAIM OF INEFFECTIVE ASSISTANCE WHILE REPRESENTED BY COUNSEL. U.S.C.A. CONST. AMEND. 6; WEST'S GA. CONST. ART 1, § 1, PAR. 14.

UNDER WELL ESTABLISHED GEORGIA LAW, APPELLANT WAS REQUIRED TO RAISE ISSUE OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL AT THE EARLIEST PRACTICABLE MOMENT TO AVOID IT BEING DEEMED WAIVED. E.G., TRUTH V. STATE, 283 GA. 14 (3), 657 S.E. 2d 225 (2008); BAILEY V. STATE, 264 GA. 300, 443 S.E. 2d 836 (1994); ~~POUNCE~~ POUNCE V. STATE, 260 GA. 840 (1), 400 S.E. 2d 922 (1991); LLOYD V. STATE, 258 GA. 645, N.I. 373 S.E. 2d 1 (1988); SMITH V. STATE, 255 GA. 654 (3), 341 S.E. 2d 5 (1986).

THIS REQUIREMENT THAT AN INEFFECTIVENESS CLAIM BE MADE AT THE EARLIEST PRACTICABLE MOMENT "IS A REQUISITE OF A SOUND SYSTEM OF CRIMINAL JUSTICE, SERVING LIKE THE PROPER ENDS OF DEFENDANTS AND THE PUBLIC..." [CITE.] HODD V. STATE, 282 GA. 462, 462-464, 651 S.E. 2d 88 ("A LAWYER MAY NOT ETHICALLY PRESENT A CLAIM THAT HE PROVIDED A CLIENT WITH INEFFECTIVE ASSISTANCE OF COUNSEL"). COUNSEL PROSECUTING AN INEFFECTIVE ASSISTANCE CLAIM MUST BE FREE TO OPERATE INDEPENDENTLY OF THE ATTORNEY WHOSE PERFORMANCE IS IN QUESTION. CHATMAN V. MANCIL, 280 GA. 253 (1), 626 S.E. 2d 102 (2006); DAVIS V. TURPIN, 273 GA. 294 (3)(b), 539 S.E. 2d 129 (2000)

APPELLANT THINK IT IS SAFE TO SAY THERE WAS NEVER AN ACTUAL MOTION FOR NEW TRIAL HEARING AND IT APPEARS THAT THE STATE AND TRIAL JUDGE WAS INVOLVED IN SOME "VINDICTIVENESS" (LET ME EXPLAIN) HOWEVER, SEEING THAT IT HAS BEEN FOUR YEARS AFTER MY CONVICTION AND SENTENCE, AND THE COURT REPORTER HAD DELAYED TRANSCRIBING THE TRANSCRIPT AND WAS A "FUGITIVE" FROM JUSTICE (ON THE RUN) I PURPOSE THE FOLLOWING:

THE EFFECT OF SUCH DELAY IN TRANSCRIPT PREPARATION IS GOVERNED BY THE BALANCING TEST SET FORTH IN BARKER V. WINGO, 407 U.S. 514, 92 S. CT. 2182 (1972) AND ADOPTED IN GRAHAM V. STATE, 171 GA. APP. 242, 250 (7), 319 S.E. 2d 484 (1984) WHETHER A DELAY IN THE APPELLATE PROCESS VIOLATES DUE PROCESS DEPENDS ON:

1. THE LENGTH OF THE DELAY. (IT WAS 4 YEARS BEFORE THE ~~NEW~~ TRIAL TRANSCRIPT WAS TRANSCRIBED FOR HIS APPEAL)
2. THE CAUSE OF THE DELAY. (THE COURT REPORTER WAS A FUGITIVE FROM JUSTICE) (ON THE RUN)
3. THE APPELLANT'S ASSERTION OF HIS RIGHTS (COMPLAINED FROM DAY ONE)
4. PREJUDICE TO THE APPELLANT. (PREVENTED HIM FROM APPEALING HIS CLAIMS OF MURDEROUS PROSECUTION AND JUDICIAL VINDICTIVENESS AMONGST OTHER ISSUES).

DUE TO THE STATE'S FAILURE TO PROVIDE THE TRIAL TRANSCRIPT FOR FOUR (4) YEARS RESULTING IMPOSSIBILITY OF LITIGATING HIS MOTIONS FOR NEW TRIAL AND APPEAL ON THE MERITS AND BECAUSE THE COURT REPORTER WAS A "FUGITIVE" (ON THE RUN) THE CONVICTION AND SENTENCE ON JULY 16, 2002 AND AUGUST 30, 2002 SHOULD BE VACATED AND APPELLANT SHOULD BE GIVEN A NEW TRIAL. SEE (ENCLOSED CONTEMPT ORDER).

APPELLANT ALLEGES ERROR AT TRIAL AS GROUNDED FOR A NEW TRIAL, SHOWS THAT THE ERROR AFFECTED THE OUTCOME OF THE PROCEEDING. COMPARE U.S. V. FRAPPIER, 807 F. 2d 257. 262 (1st CIR. 1987).

4. CHARGE THE JURY - BURDEN-SHIFTING OF PRESUMPTION AND INFERENCE

APPELLANT CONTENDS THE TRIAL COURT ERRONEOUSLY CHARGE THE JURY ON INDETERMINATE BURDEN-SHIFTING ASPECT TO THE DEFENDANT VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT. (T. P. 158, 3-12)

LACK OF THE "STATUTE IN THE INDICTMENT O.C.B.A. # CREATES A PRESUMPTION OF POSSESSION WITH INTENT TO DISTRIBUTE FROM A INFERENCE. AFTER THE JURY HAS HEARD ALL THE EVIDENCE, IT IS THE TRIAL JUDGE'S DUTY TO INSTRUCT OR CHARGE THE JURY ON THE PRINCIPLES OF LAW WHICH APPLY TO THE CASE. POPE V. STATE, 52 GA. APP. 411. 413. 183 S.E. 2d 630 (1935); MORRIS V. UNITED STATES, 156 F. 2d 525. 527 (9TH CIR. 1946). JURY INSTRUCTIONS SHOULD BE TAILORED TO THE INDICTMENT AND ADJUSTED TO THE EVIDENCE ADMITTED. SHIVER V. STATE, 163 GA. APP. 521. 523 (5), 295 S.E. 2d 219 (1982). JURY CHARGE INSTRUCTION ON THIS PRESUMPTION MUST COMPORT WITH THE REQUIREMENTS OF DUE PROCESS CLAUSE. THE BURDEN-SHIFTING ASPECT OF JURY INSTRUCTIONS DID NOT BECOME AN ISSUE UNTIL THE UNITED STATES SUPREME COURT ANNOUNCED IN 1970 THAT DUE PROCESS REQUIRES THE PROSECUTION IN A CRIMINAL CASE TO PROVE BEYOND A REASONABLE DOUBT EVERY ELEMENT OF THE ALLEGED OFFENSE. ACRE WINSHIP, 397 U.S. 358. 90 S. CT. 1068, 25 L. ED. 2d 368 (1970). IT WAS NOT UNTIL SANDSTROM V. MONTANA, 442 U.S. 510. 99 S. CT. 2450. 61 L. ED. 2d 39 (1979); WILSTER COUNTY COURT V. ALLEN, 442 U.S. 140. 99 S. CT. 2213. 60 L. ED. 2d (1979), THAT THE COURT CITED THE "BEYOND A REASONABLE DOUBT" STANDARD IN PLACING CONSTITUTIONAL RESTRICTIONS ON BURDEN-SHIFTING JURY INSTRUCTIONS. SANDSTROM V. MONTANA MADE IT CLEAR THAT THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT PROHIBITS THE STATE FROM GIVING JURY CHARGES THAT HAVE THE EFFECT OF RELIEVING THE STATE OF THE BURDEN OF PROOF ON AN ESSENTIAL ELEMENT OF THE CRIME. THE FULL EFFECT OF THIS LIMITATION WAS NOT SEEN UNTIL THE DECISION IN FRANCIS V. FRANKLIN, 471 U.S. 307. 105 S. CT. 1965. 85 L. ED. 2d 344 (1985) WAS ANNOUNCED IN 1985. IN FRANCIS V. FRANKLIN, THE COURT CONCLUDED THAT THE JURY CHARGE COULD HAVE BEEN INTERPRETED BY A REASONABLE JUROR AS A MANDATORY PRESUMPTION THAT SHIFTED TO THE DEFENDANT A BURDEN OF PERSUASION OF THE INTENT ELEMENT OF THE OFFENSE, AND WAS, THEREFORE, A VIOLATION OF DUE PROCESS.

INEFFECTIVE ASSISTANCE OF COUNSEL

APPELLANT WAIVED HIS INEFFECTIVE ASSISTANCE OF COUNSEL ARGUMENT BY FAILING TO RAISE IT AT EARLIEST PRACTICABLE OPPORTUNITY WHERE APPELLANT'S TRIAL COUNSEL FILE NEW TRIAL MOTION, AND DEFENDANT'S APPELLATE COUNSEL DID NOT FILE AMENDMENT NEW TRIAL MOTION.

1. FRANKLIN CONTENDS THAT HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL. THE RECORD SHOWS THAT APPELLANT'S TRIAL COUNSEL FILE A MOTION FOR NEW TRIAL. LIKEWISE, HIS CURRENT ATTORNEY DID NOT AMEND THE MOTION FOR NEW TRIAL. THUS, THE INEFFECTIVE OF COUNSEL ISSUE HAS NEVER BEEN CONSIDERED OR RULED UPON BY THE TRIAL COURT. PUNDER V. STATE, 260 GA. 840, 400 S.W. 2D 922 (1991).

APPELLANT ARGUE DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL AT TRIAL. TO PREVAIL ON A CLAIM OF INEFFECTIVE ASSISTANCE, FRANKLIN MUST PROVE BOTH THAT THE PERFORMANCE OF HIS LAWYERS WAS DEFICIENT AND THAT HE WAS PREJUDICED BY THIS DEFICIENT PERFORMANCE. STRICKLAND V. WASHINGTON, 466 U.S. 668, 687 (III), 104 S. CT. 2052, 80 L. ED. 2D 674 (1984). TO SHOW THAT THE PERFORMANCE OF HIS LAWYER WAS DEFICIENT, FRANKLIN MUST PROVE THAT THEY PERFORMED THEIR DUTIES AT TRIAL IN AN OBJECTIVELY UNREASONABLE WAY, CONSIDERING ALL CIRCUMSTANCES, AND IN THE LIGHT OF PREVAILING PROFESSIONAL NORMS. Id. AT 687-688 (III)(A), 104 S. CT. 2052. SEE ALSO KIMMELMAN V. MORRISON, 477 U.S. 365, 381 (II)(C), 106 S. CT. 2574, 91 L. ED. 2D 305 (1986), AND TO SHOW THAT HE WAS PREJUDICED BY THE PERFORMANCES OF HIS LAWYER. FRANKLIN MUST PROVE "A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S IMPROFESSIONAL ERROR, THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT, A REASONABLE PROBABILITY SUFFICIENT TO UNDERMINE CONFIDENCE IN THE OUTCOME." STRICKLAND, 466 U.S. AT 694 (III)(B), 104 S. CT. 2052. SEE ALSO WILLIAMS V. TAYLOR, 529 U.S. 362, 391 (III), 120 S. CT. 1495, 146 L. ED. 2D 389 (2000). THIS BURDEN, THOUGH NOT IMPOSSIBLE TO CARRY, IS A HEAVY ONE. SEE KIMMELMAN, 477 U.S. AT 382 (II)(C), 106 S. CT. 2574. CONCLUDE THAT FRANKLIN CARRY HIS BURDEN.

(C). FRANKLIN'S CLAIMS THAT HIS DEFENSE ATTORNEY WERE INEFFECTIVE BECAUSE COUNSEL FAILED TO OBJECT TO HEARSAY TESTIMONY ABOUT THE CONTENTS OF CERTAIN 911 CALL LOG. APPELLANT ASSERTS THE TRIAL COURT ERRED IN DENYING HIS MOTION TO SUPPRESS BASED ON THE STATE'S FAILURE TO DISCLOSE EXCULPATORY EVIDENCE "PERTAINING TO THE ALARM AT THE CAR LOT. APPELLANT ARGUES IN SUPPORT TO THIS ENUMERATION THAT ALTHOUGH TRIAL COUNSEL FILED DISCOVERY MOTIONS. COUNSEL ~~WAS~~ INFORMATION ABOUT THE REPORTS OF THE 911 DISPATCHED TO CHECK OUT THE ALARM AND NEVER PRESENTED EXCULPATORY AND PERTINENT EVIDENCE THAT WOULD TEND TO SUPPORT APPELLANT'S DEFENSE OR THE LACK OF PROBABLE CAUSE TO SEARCH OR ARREST. ACCORDING TO MR. FRANKLIN, HIS LAWYERS SHOULD HAVE CHALLENGED THE OFFICER TESTIMONY BECAUSE IT CORROBORATED THE LACK OF PROBABLE CAUSE AND WAS INCONSISTENT WITH THE PROSECUTION THEORY OF THE CASE. THOSE RECORDS, NEVER TIED FRANKLIN

to the Burglary Alarm scene, of connected the Contraband to the Burglary Alarm and supported Mr. Franklin theory that officer Bradford knew where Mr. Franklin had come from at the time the Burglary Alarm went off. Moreover, the Appellant exhibited, the very short length of time of the Alarm 911 calls was inconsistent with the Prosecution theory of a verbal altercation between of Bradford and Mr. Franklin, and the record tended to show that the officer had the motive to suspect Mr. Franklin and would not have needed a opportunity to meet Appellant and for the involvement with the Burglary Alarm by Mr. Franklin. Trial failure to object to the hearsay testimony prejudice his defense.

Officer Phillip Bradford cited evidence, who not only refuted Mr. Franklin's Alibi for the time of the Alarm at the all store auto "but also testify to and documented the fact that Mr. Franklin had been under almost constant surveillance by officer Bradford before the Alarm went off at all store car lot. After the Alarm went off. Although units were dispatched to check out the Alarm, officer Bradford neither joined them nor reported to them that Mr. Franklin might be a suspect. Rather he continued drive around looking for Mr. Franklin because he was just thinking... what's he doing. Meanwhile, the officers who went to the car lot spent five minutes there assuring themselves that everything was intact, and then left. At the time of trial it was still unknown whether something had triggered the Alarm or it had simply malfunctioned.

The Appellant has shown each necessary element that requires the Police to apply the constitutionals. As to, the Appellant has shown that process was subject to said conditions and the denying testimony shall not stand. Appellant has demonstrated that he was denied effective assistance of counsel, that he able to present the evidence which would overweighedly satisfy both prongs of Strickland. He was shown that the trial court erred and denying his motion to suppress his request to continue with trial to present witnesses. He has demonstrated good cause for his motion to be heard by this Honorable court.



Elliot Jay Franklin, Pro-Se
GDC# 149083
Washington State Person
P.O. Box 206
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Respectfully submitted

This the 7 day of July, 2014.

As concluded, Mr. Franklin respectfully requests that this court grant relief to correct a manifest injustice and because he received ineffective assistance of counsel. Mr. Franklin further requests that this court review the records and transcripts to address this matter and that the appellant be provided relief.

Mr. Franklin contends that the motion to amend his motion to suppress and vacate void conviction and sentence is required to correct a manifest injustice and because he received ineffective assistance of counsel. The appellant focuses on elements that render a defendant eligible for a particular underlying crime. Sawyer explained the actual innocence as the sentencing actual innocence exception although the appellant conceded guilt of the not moral innocence of the charged crime. As that case the court applied L. Ed. 2d 269, 112 S. Ct. 2514 (1992) made it clear that actual innocence did not require that the appellant be actually innocent as opposed to legally innocent. The Supreme Court in Sawyer v. Whitley, 551 U.S. 333, 120 S. Ct. 269, 112 S. Ct. 2514 (1992) made it clear that actual innocence did not require that the appellant be actually innocent as opposed to legally innocent. The Supreme Court in Sawyer v. Whitley, 551 U.S. 333, 120 S. Ct. 269, 112 S. Ct. 2514 (1992) made it clear that actual innocence did not require that the appellant be actually innocent as opposed to legally innocent.

The overriding purpose of the great individual interest merits protection by imposing a somewhat less exacting standard of proof or a petitioner alleging a fundamental miscarriage of justice than on one alleging that his sentence is too severe. As the Supreme Court has noted, "... a standard of proof represents an attempt to construct the fact finder concerning of factual conclusions for a particular type of adjudication." In re Winship, 397 U.S. at 370; see also Adkins v. Texas, 441 U.S. 418, 423, 60 L. Ed. 2d 333, 99 S. Ct. 1804 (1979). The standard of proof thus reflects "the relative importance attached to the ultimate decision." Ibid.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE THIS DAY SERVED A TRUE AND CORRECT COPY OF THE WITHIN AND FOREGOING DOCUMENT(S) UPON THE PARTY(S) LISTED BELOW BY DEPOSITING A COPY OF SAME IN THE UNITED STATES MAIL IN A PROPERLY ADDRESSED ENVELOPE WITH ADEQUATE POSTAGE THEREON TO BELOW ADDRESSE(S).

COURT OF APPEALS OF GEORGIA

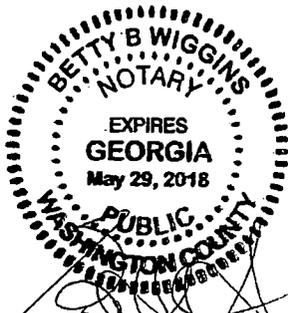
SUITE 501

47 TRINITY AVENUE

ATLANTA, GEORGIA 30334

THIS THE 7TH DAY OF JULY, 2014

SIGNATURE, *Elliott*



The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 28, 2014

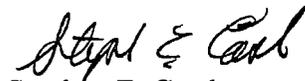
Mr. Waseem Daker
GDC 901373
GD&CP
Post Office Box 3877
Jackson, Georgia 30233

RE: A13A0533, A13A1473, A14D0031, A14D0115 and A14D0132

Dear Mr. Daker:

I apologize, but our office does not supply any additional information than that which is provided in the Court Order or that which is provided in the opinion.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/br

Steve Castlen

From: Steve Castlen

Dear Mr. Daker,

I am sorry, but our office does not supply any further information that what is contained in the Court Order or what is contained in the opinion.

JULY 17, 2014

WASEEM DAKER
#901373
G.S.P.
300 1ST AVE S
REDSVILLE, GA 30453

STEPHEN E. CASTLEN, CLERK
GEORGIA COURT OF APPEALS
47 TRINITY AVE, S.W. SUITE 501
ATLANTA, GA 30334

RECEIVED IN OFFICE
2014 JUL 21 PM 1:25
CLERK/COURT APPEALS CLERK
COURT OF APPEALS OF GA

RE: WASEEM DAKER V. STATE, APPEAL NOS. A13A0533
A13A1473
A14D0031
A14D0115
A14D0132

DEAR MR. CASTLEN:

I AM THE APPELLANT IN THE FIVE(5) ABOVE-STYLED APPEALS.
PLEASE INFORM ME THE NAMES OF THE JUDGES WHO DECIDED EACH
OF THE ABOVE FIVE(5) CASES. THE NAMES OF THE DECIDING JUDGES
ARE NOT LISTED ON ANY ORDER IN ANY OF THE CASES.

I APPRECIATE YOUR PROMPT ASSISTANCE IN THE MATTER. IF
YOU HAVE ANY QUESTIONS, CONCERNS, OR COMMENTS, PLEASE CONTACT
ME. THANK YOU.

SINCERELY,



WASEEM DAKER

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

July 21, 2014

Mr. Waseem Daker
GDC901373
Georgia Diagnostic and Classification Center
State Prison
Post Office Box 3877
Jackson, Georgia 30233

RE: A13A0533, A13A1473, A14D0031, A14D0115 and A14D0132

Dear Mr. Daker:

According to the Court's docket, you acted pro se in all of the above appeals. You have been sent documentation released to both the appellant and appellee.

Sincerely,

Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

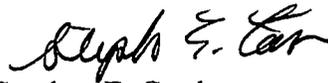
July 28, 2014

Mr. Fred Dalton Brooks
GDC 853003
S.M.U. LA-112
Post Office Box 3877
Jackson, Georgia 30233

Dear Mr. Brooks:

I apologize, but our office does not provide any research services for parties. Also, I am not aware of the case you are describing.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/br

Steve Castlen

From: Steve Castlen

Mr. Brooks,

I am so sorry, but our office does not provide any research services for parties. Also, I am not aware of the case you are describing.

SUNDAY JULY 13, 2014

RE: CASE CITATION NUMBER

SIR,

THERE WAS A RECENT (3 TO 6 MONTHS AGO) CASE RULED ON BY THE GEORGIA COURT OF APPEALS CONCERNING THE ISSUES RELATED TO AN INMATES ACCESS TO THE LAW LIBRARY.

I THINK THE NAME OF THE CASE IS DAKER V. STATE. I AM NOT SURE OF THE CORRECT SPELLING OF DAKER.

WOULD YOU PLEASE SEND ME A CASE CITATION NUMBER SO I CAN OBTAIN THIS CASE FROM OUR PRISON LAW LIBRARY.

I HOPE TO HEAR FROM YOU SOON.

RECEIVED IN OFFICE

2014 JUL 21 PM 1:26

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

SINCERELY,

Fred Brooks

FRED BROOKS

FRED DALTON BROOKS

853003

GEORGIA DIAGNOSTIC AND CLASSIFICATION PRISON

S. M. U. LA-112

P. O. Box 3877

JACKSON, GA. 30233

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 29, 2014

Mr. Brant B. Barber
3993 Glen Meadow Drive
Norcross, Georgia 30092

Dear Mr. Barber:

We are returning your documents as we have no case under your name at this time on our Docket. You are required to file a Notice of Appeal (within ten days of July 22) after our Court granted your request for discretionary appeal. In that Notice of Appeal you should list what documents you want included and what documents that should be excluded. Our Court has no jurisdiction until we get your case docketed.

Please note that the fees for paying for transcripts is different than the fees for filing with our Court. Often the lower court requires a payment of fees for transcripts even though our Court may accept a pauper's affidavit for the purpose of our fees. The decision to waive fees for lower court records is solely within the jurisdiction of the lower court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Georgia Court of Appeals

SEC/br
Enclosures

FILED IN OFFICE

JUL 25 2014

Appeals Court, Motion to Compel for Transcripts

CLERK, COURT OF APPEALS
**IN THE COURT OF APPEALS
STATE OF GEORGIA**

RECEIVED IN OFFICE
2014 JUL 25 PM 4:21
CLERK/COURT ADMINISTRATION
COURT OF APPEALS OF GA

BRANT B. BARBER , Pro Se	)	APPLICATION No.	A14D0433
)		
APPLICANT	)	GWINNETT COUNTY	
	)	SUPERIOR COURT	
V.	)	JUDGE STEPHEN FRANZEN	
	)	ACTION No. _14-F00355-0/14-A-02002-8_	
RENEE SIBUN	)	JUVENILE COURT	
	)	ACTION No. __14-0956-2, __14-0957-2__	
RESPONDENT	)	ACTION No. __14-0993-2, __14-0996-2__	

MOTION TO COMPEL FOR TRANSCRIPTS

COMES NOW, The Applicant (Brant B. Barber) in the above titled application in The Court of Appeals of Georgia.

Applicant respectfully requests that this Motion to Compel the Juvenile Court of Gwinnett County to supply the 2 Transcripts requested and related to this Appeal Application to be accepted by the Court of Appeals of Georgia and that this motion to be Granted.

On or around July 7th, 2014, Applicant hand delivered a copy of the stamped copy from the Appeals Court of Georgia the Pauper's Affidavit to the Juvenile Clerk of Courts to be given to the Honorable Judge Stephen Franzen and a separate one for Mrs. Mary Leonard, the Guardian Ad Litem. (Previously submitted in the original application)

On or around July 15th, 2014, Applicant received "Order" from The Juvenile Court of Gwinnett County" denying "Defendant's Motion to Compel Discovery", thus further blocking relevant information in this case. (EXHIBIT M1)

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

July 29, 2014

Mr. Anthony T. Barnett
GDC 1001052439
Macon State Prison
Post Office Box 426
Oglethorpe, Georgia 31068

RE: Lower Court Case Numbers: 12CR68088
State of Georgia v. Anthony T. Barnett

Dear Mr. Barnett:

We are returning the documents that you submitted to our Court as there is no case docketed in your name in this Court. It appears that you may have intended to file a Notice of Appeal and, if that is the case, those are filed in the lower court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/br
Enclosures

Justice court: Gwinnett Superior Court. M 2255 of 28 U.S.C. notice of motion to set aside CR No. 91-B-1915-5 - Rose. Sentence CPL ~~11010~~ hon. R.T. Winegarden

The people of the state GEORGIA S.H. LEDFORD, Prosecutor.

Against JAMES ALLEN HAMBY and SACRAMENTO CHAVEZ

Name JOSE SACRAMENTO CHAVEZ-ORTIZ SS: 636-09-3443 A 042 225 721

1. Name Sacramento Chavez being duly sworn, depose and say: That as a legal permanent resident,

1- I am the defendant in this action and this affirmation is made in support of the annexed request to vacate the judgment of conviction herein dated 11/14/1991, Conviction of Moral turpitude.

Support of the annexed request to vacate the judgment of conviction herein dated 07/08/2014 Today's day. 2- This affidavit is made upon personal knowledge of the facts alleged; unless otherwise advised in 2402NA 3- This application is in the nature of a writ of error coram nobis. To provision statute "Padilla" in court proceedings. (In INA 240, 237 (a) (2) (A) (iii) of the INA. said basis of the foregoing.

Charge and Sentence

4- I was initially charged enter of 16-8-7 Code of Georgia. and I pleaded at Defense on November 14, 1991, convicted in the Superior Court of Gwinnett County, State of Georgia for the offense of Theft by Receiving, Stolen Property, committed on or about September 01, 1991 by Mr. James Allen Hamby who lived in my home. Addressed: 2168 Dowdell DR, Chamblee, GA. 30341-3406, along with his wife and Child, Mr. Hamby was employed by me in Carpet Services.

In 1996 the Immigration law was amended which effect resident in United State base on my 237(a)(2)(A)(i) charges. of the Immigration and Nationality Act as amended, in that court- removal from the U.S.A. SUBSEQUENT EVENTS

08/13/2011

5. In Oct 2012, I was taken into ICE custody and I am now defending removal proceedings before an immigration Court, which are partly based on this conviction (See Immigration Notices, Exhibit "D") Super- Form I-862, Final Disposition. on file, Bill of Indictment, I-200 Warrant for Arrest of Alien, Form I-286, Form I-261, U7'S, VV'S, XS (CUSTODY ORDER OF THE IMMIGRATION JUDGE bond set on 4/10/2014 for the amount of \$ 7,500. now to date. Since then my health has worsen in a comparison to when I was not in detention. I had surgery while in a

6. I have been detained in the ^d orange county jail without bail since that time ^{About:} ~~(Oct 2012)~~ about 08/13/2011; ^{at} 400 West 8th Street, Anniston, AL 20136 - With ICE Detainer. and now at LaSalle Detention Facility since 01/06/2014 at 230 Pinehill Road, Jena, LA. 71342 by ICE

Relevant FACTORS

I was born in Mexico and I came to the United States legally in 10/19/89. At the time of my conviction, I did not know that my conviction would result in the commencement of a removal proceeding ^{against} me that could result in my deportation. and Removal from the United States.

7. AT the time of the charges, I had no discussion about any immigration consequence of such charges with attorney. Phyllis Miller or Mr. CRUZ, the Court Appointed Attorney.

8. I have lived in the United States for about 33 years and I have NO children. I have started on a small business for 23 years in carpet services since 06/22/1981 and since 1997 on my own, independent from other contractors.

I HAVE BEEN BACK TO US since I left ^{to MX} many years ago. And I do not know I could survive in MX if I were to be deported, I have no saving and no way to support myself and I don't have no ties to relatives there, Mexico Michoacan or the place of my birth. Most close relatives there have died now since I last lived there or visited for 4 days in Nov. 2010. For my immigration case I have hire attorney R. A. Free. And he has advice me that if I were to get the charge vacated, my chances to remain in the United States would greatly improve and my Form I-90 can be aproved, also can file N-400 to request U.S. Citizenship, for Approval.

10. You honor I rfy have had a brush with the law but nothing constitute me being taking away from my LPR family; please your honor give me a chance to reunite with my family, Legal Permanent Resident (LPR) Relatives here in the United States, the Children of my Sister who is LPR here Huston TX, Domicilate Venue.

Subsequently Now

I request that the court set aside or vacate the charge in any way see fit pursuant to the provision under Title 28 § 2255, The Rehabilitation Act, 504 due to my long existing Illiteracy, Disfunctionable Illiteracy in English and in Spanish. cause of many of my hardships and now with aged poor sight needing Reading Glasses.

Thank you honor for cooperation in these important matters.

Noted: I was helped by Jose Gonzalez to write this Request.

Cordially yours,

Jose S. Chavez Ortiz

State of Louisiana
Parish of LaSalle

Phyllis Miller #88404

NOTARY PUBLIC

MY IMMIGRATION LAWYER "/s/"
NAME: Barratt Johnston, LLC

Address. to Phone#. (615) 244-2202
217 Second Ave. North
Nashville, TN. 37201
- R. Andrew Free of Counsel and.
Vanessa Martinez (615) 594-5717

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 6, 2014

Georgia Department of Corrections
Inmate Trust
Post Office Box 405699
Atlanta, Georgia 30384-5699

RE: James Rashad Clay
GDC#1001326571

Dear Sir or Madam:

Enclosed please find United States Postal Service money order number 22122388574, payable to the order of this Court on behalf of inmate, James Rashad Clay, GDC #1001326571. There is no case pending in the Court of Appeals of Georgia under the name of James Rashad Clay. Mr. Clay's correspondence was returned to him along with the money order at the Georgia Diagnostic and Classification Center on July 3, 2014.

Since Mr. Clay is incarcerated at the Georgia Diagnostic and Classification Center, he is not allowed to receive cash or personal checks/money orders through the mail and his money order (with a copy of the enclosed form) was returned to this Court. Therefore, I am forwarding the money order to you for return to Mr. Clay's Inmate Account.

Sincerely,


Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

cc: Mr. James R. Clay
GDC1001326571
Georgia Diagnostic and Classification Center
State Prison
Post Office Box 3877
Jackson, Georgia 30233



POSTAL MONEY ORDER

Serial Number

22122388574

Year, Month, Day

2014-07-01

Post Office

300365

U.S. Dollars and Cents

\$80.00

Amount

ETIGHTY DOLLARS & 00¢ *****

Pay to

Court of Appeals of Ga

Address

47 Trinity Ave SW #501
Atlanta, Ga 30334

Clerk

0004

Memo

Clay # 100 1326571

From

James R. Day

Address

G.D.N. P.O. Box 3877

Dickson, Ga 30233

© 2008 United States Postal Service. All Rights Reserved.

000008002

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

22122388574



Nathan Deal
Governor

GEORGIA DEPARTMENT OF CORRECTIONS

Georgia Diagnostic & Classification Prison

P.O. Box 3877
Jackson, Georgia 30233
770-504-2019
FAX 770-504-2006

Brian Owens
Commissioner

To Whom It May Concern:

Inmates incarcerated at the Georgia Diagnostic And Classification Prison are not allowed to receive cash or personal checks through the mail. They may receive funds in the form of money orders only.

Mail money orders to:
Georgia Department of Corrections
Inmate Trust
P. O. Box 405699
Atlanta, Ga. 30384-5699

To make payments using JPay:
Visit the JPay website at www.ipay.com
Call 1-800-574-JPAY(5729) for operator assisted payment
Visit a MoneyGram or Ace Cash Express location - call 1-800-574-5729 for location nearest you.

You must place your name and address on all correspondence.

Sincerely,

Mail Room Staff

RECEIVED IN OFFICE
2014 JUL 28 PM 3:32
CLERK OF SUPERIOR COURT OF APPEALS OF GA

MAIL ITEMS REJECTION FORM

TO SENDER: Georgia Court of Appeals Date: 07-08-14

FROM: Mail Inspector: CDCP
Facility/Center

5297

SUBJECT: Inmate/Probationer: Clay, James Rashad # 1001326571
The item(s) of mail is being returned/held for you for the reason(s) indicated:

- A. () Contains pornographic/nude pictures.
- B. () Unauthorized currency. We cannot accept personal checks or cash.
- C. () Prior approval has not been issued to inmate for _____

D. () Stamps are not allowed.

E. (X) Other: money orders unauthorized - All money orders must be mailed to Atlanta, Georgia

F. Inmate Appeal for Rejection of Publication (see section VI.J of SOP) [state reason for appeal of rejection]:

James Clay
Inmate/Probationer)

(Mail Inspector)

If items are being held, you have 30 calendar days to do one of the following:

(1) Pic
Mai

(2) Pro

UNITED STATES POSTAL SERVICE		POSTAL MONEY ORDER		
Serial Number	Year, Month, Day	Post Office	U.S. Dollars and Cents	
22122388574	2014-07-01	300563	\$80.00	
Amount:		EIGHTY DOLLARS & 00¢ *****		

If you d
be destr

Pay to Court of Appeals of Ga Clerk 0002

Address 47 Inditch Ave SW #501 From James R. Clay

Copy: Ir Atlanta, Ga 30334 Address GA 00 - P.O. Box 3877

RETENTION Memo Clay #1001326571 JACKSON, GA 30233

he inmate

© 2008 United States Postal Service. All Rights Reserved.

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

0000080020 22122388574

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 6, 2014

Mr. Brant B. Barber
3993 Glen Meadow Drive
Norcross, Georgia 30092

RE: A14D0433. Brant B. Barber v. Renee Sibun

Dear Mr. Barber:

I am returning the attached Notice of Appeal and copies which have already been filed in the Gwinnett County Juvenile Court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

FORM 1 - NOTICE OF APPEAL

FILED IN OFFICE

JUL 31 2014

CLERK, COURT OF APPEALS OF GEORGIA

RECEIVED IN OFFICE
2014 JUL 31 PM 12:15
CLERK, COURT OF APPEALS OF GEORGIA

NOTICE OF APPEAL
IN THE JUVENILE COURT
OF GWINNETT COUNTY

STATE OF GEORGIA

PLAINTIFF

Brant B. Barber

CASE NUMBER

A 14 D 0433

vs.

DEFENDANT

RENEE SIBUN

NOTICE OF APPEAL

Notice is given that Brant B. BARBER (~~Plaintiff/Defendant~~) in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court entered on the 6th day of JUNE, 2014

The clerk shall

omit nothing from the record on appeal ~~will omit from the record on appeal the following: From 3/24/2014 and 5/7/2014 Hearings.~~

A transcript of evidence and proceedings (will) (will not) be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is CUSTODY/VISITATION and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

SEE ATTACHED CERTIFICATE OF SERVICE

I certify that I have this day served _____ (opposing party or attorney) with a copy of this Notice of Appeal by _____ (hand delivery/mailing a copy first class mail postage prepaid) to him/her at: _____ (complete address of party served).

This the 28th day of July, 2014

Brant B. Barber (Sign your name.)

770 231-4569

**IN THE JUVENILE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

BRANT B. BARBER, Pro Se	)	NOTICE No. _A14D0433
)	
APPLICANT	)	GWINNETT COUNTY
	)	SUPERIOR COURT
V.	)	JUDGE STEPHEN FRANZEN
	)	ACTION No. _14-F00355-0/14-A-02002-8__
RENEE SIBUN	)	JUVENILE COURT
	)	ACTION No. __14-0956-2, __14-0957-2__
RESPONDENT	)	ACTION No. __14-0993-2, __14-0996-2__

CERTIFICATE OF SERVICE

I, The Applicant (Brant B. Barber) do hereby certify that I have served the within and foregoing NOTICE OF APPEAL & Appeal Order by U.S. Mail and/or hand delivered to the following:

Tremayne & Barrett, LLC.
Lauren L. Barrett, Esq.
Attorney for Renee Sibun (Respondent)
3500 Piedmont Rd. NE Suite 322
Atlanta, GA 30305
(404) 812-0727

Honorable Stephen E. Franzen
Judge, Gwinnett Juvenile Court
115 Stone Mountain Street
Lawrenceville, GA 30046
(770)-770-619-6069

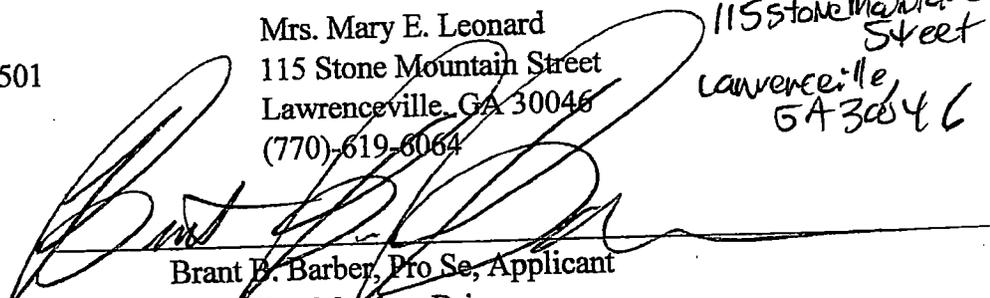
*of Juvenile Court of Gwinnett
Clerk*

Court of Appeals of Georgia
47 Trinity Avenue, S.W., Suite 501
Atlanta, GA 30334
(404) 656-3450

Mrs. Mary E. Leonard
115 Stone Mountain Street
Lawrenceville, GA 30046
(770)-619-6064

*115 Stone Mountain
Street
Lawrenceville,
GA 30046*

This 28th Day of July, 2014.



Brant B. Barber, Pro Se, Applicant
3993 Glen Meadow Drive
Norcross, GA 30092
(770)-231-4569, elvistrout@gmail.com

BRANT BARBER
3993 GLEN MEADOW DRIVE
NORCROSS, GA 30092

A14D0433

14F00355 14A02002 140956 140957 140993 140996

Court of Appeals of the State of Georgia

ATLANTA, July 22, 2014

The Court of Appeals hereby passes the following order:

A14D0433. BRANT B. BARBER v. RENEE SIBUN.

Brant B. Barber filed this application from the trial court's order concerning custody and visitation of the parties' minor children. Under OCGA § 5-6-34 (a) (11), "[a]ll judgments or orders in child custody cases awarding, refusing to change, or modifying child custody" are directly appealable. A party seeking to challenge a child custody order, therefore, may file a direct appeal. See *Cohen v. Cohen*, 300 Ga. App. 7, 8 (1) (684 SE2d 94) (2009); *Taylor v. Curl*, 298 Ga. App. 45 (679 SE2d 80) (2009). We will grant an otherwise timely discretionary application if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED.

Barber shall have ten days from the date of this order to file a notice of appeal with the trial court. If, however, he has already filed a notice of appeal, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/22/2014*

*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.*

Stephen E. Costello, Clerk.

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 6, 2014

To: Mr. Angelo Bernard Banks, GDC402710, Wheeler Correctional Facility, Post Office
Box 466, Alamo, Georgia 30411

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____ . The Court of Appeals _____ . The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

For Additional information, please go to the Court's website at: www.gaappeals.us

duplicate

SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ANGELO BERNARD BANKS,
PLAINTIFF,

VERSUS

STATE Bd. PARDONS & PAROLES,
DEPT. OF CORRECTIONS, ET AL,
DEFENDANTS,

CIVIL ACTION NO 2013CV231225
APPEAL OF FINALTY

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT ANGELO BERNARD BANKS, PLAINTIFF ABOVE-NAMED
HEREBY APPEAL TO THE COURT OF APPEALS OF GEORGIA, FROM THE FINALTY
OF THE PETITION FOR DECLARATORY JUDGEMENT, ENTERED IN THIS ACTION
ON ~~NOVEMBER~~ 19, 2013,
NOVEMBER

THE CLERK WILL PLEASE OMIT NOTHING FROM THE RECORD ON APPEAL.

THIS ~~20th~~ DAY OF JULY, 2014
29th

ANGELO B. BANKS
ANGELO BERNARD BANKS, OFFENDER

CERTIFICATE OF SERVICE

I, ANGELA BERNARD BANKS, hereby certify that I have caused to be served a copy of the foregoing ~~Notice of Appeal~~ Notice of Appeal upon the opposing counsel by sending a true copy of the same by United States mail in a proper envelope with adequate postage, properly addressed to:

SAMUEL S. OWENS
c/o KARLA BROWN DOLBY
40 CAPITOL SQUARE, SE.
DEPT. OF LAW
ATLANTA, GEORGIA, 30334

This 24th day of July, 2014

ANGELA B. BANKS
Plaintiff, Pro Se

Robert Ferguson Court Appeals

RECEIVED IN OFFICE
2014 AUG - 8 PM 3:41
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

From Daniel Eric Cobble
#758572
Hancock Correctional Institution
GA State Prison
PO Box 339
Sparta, GA 31087-0000

Today's 7-28-14

regarding # 402 AJ 195

① Please send me intelligent copy of
your 9-25-13 Ruler?

I don't have one

② Please send me intelligent copy of
your 1-15-03 order?

③ Please look at enclosed US Supreme
7-15-14 order that I can't abide

by unless your serene above 2
Georgia Court of Appeals Ruler?

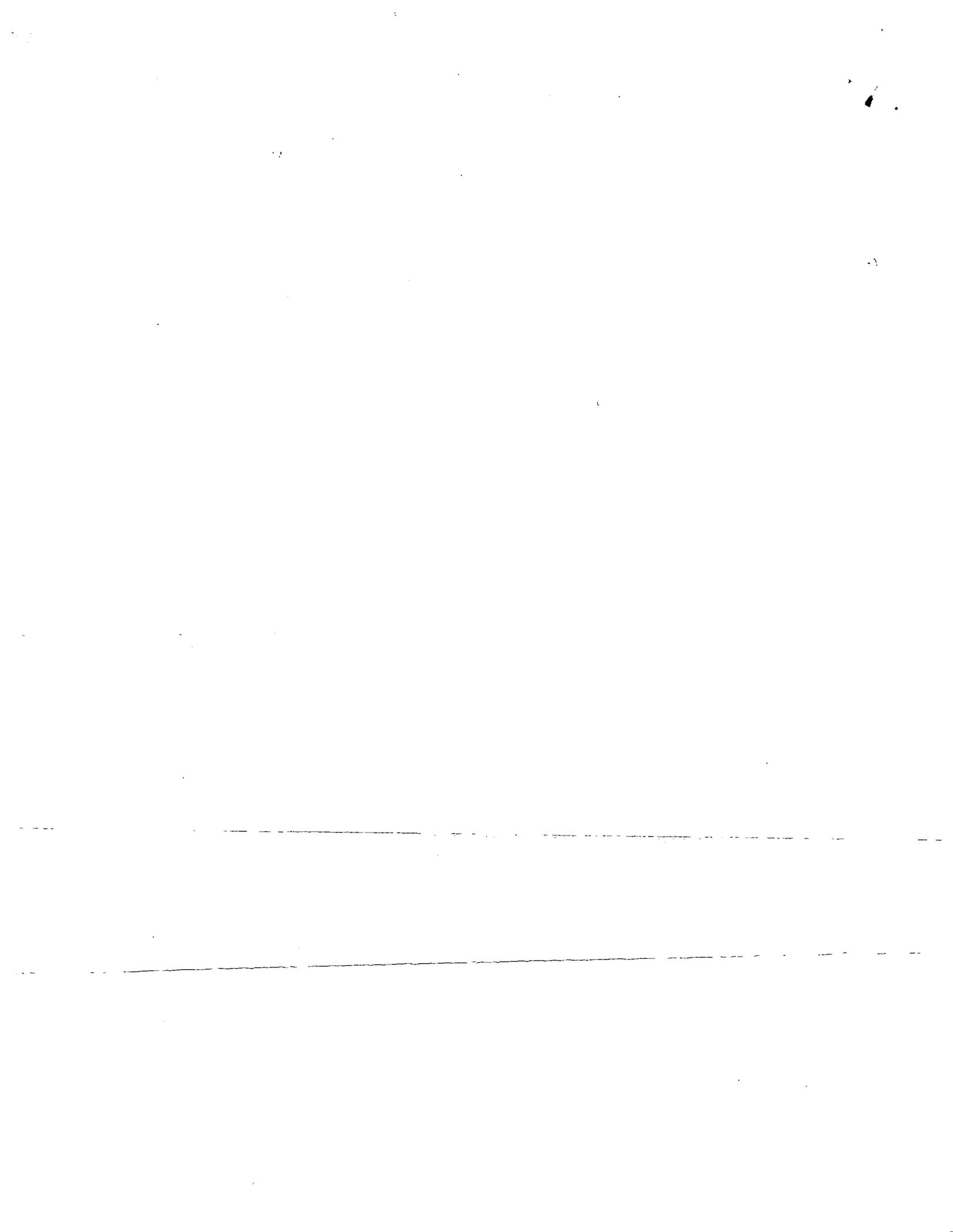
④ I is defendant

⑤ This is criminal case

⑥ I in former intelligent

⑦ total possible numbers 4

by Daniel Eutchell
prob defendant



Travis Robert Daniel Cobble
pro se petitions

Pro se defendant Request for

to abide by enclosed U.S. Supreme only
15, actly order since I don't have highest
means to get Georgia court of Appeals
9-25-13 Rule 15-03 Rule sheet
don't have your Rules attached from to
Georgia Supreme but Georgia Supreme never
referred to me @ else I'll be denied access
to US Supreme court in this criminal case

on
actly
order
on US Supreme

Case # A02A2145
Criminal

defendant

v.
Daniel Eric Cobble

State of Georgia

In the Georgia court of Appeals
State of Georgia

Account Statement

COBBLE, DANIEL

Printed By:

WELLS, KATHERINE

GDC ID: 758572

Date	Location Incurred	Obligation Type	Payable To	Obligation Detail	Amount	Paid
10/17/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16159929. (3)NONLEGAL POSTAGE @.46 EACH 10/17/13.	\$1.38	
10/17/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16159852. (5)LEGAL POSTAGE- 4 @.46 AND 1 @.66 10/17/13.	\$2.50	
10/17/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16159147. WEEKLY W/O PEN 10/17/2013	\$0.63	
10/10/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16148216 POSTAGE 10/10/2013-SPECIAL MAILING	\$6.90	
10/10/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16148212. POSTAGE 10/10/2013	\$0.46	
10/10/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16148209. POSTAGE 10/10/2013	\$2.96	
10/10/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16146599. WKLY W/O PEN 10/10/13.	\$0.63	
10/07/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16138720. POSTAGE 10/07/2013	\$6.28	
10/07/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16138692. POSTAGE 10/07/2013	\$0.92	
10/03/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16133150. MONTHLY 10/03/2013	\$0.42	
10/03/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16133148. WEEKLY W/PEN 10/03/2013	\$0.72	
10/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 10/2013	\$1.00	W
09/26/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16014047. POSTAGE 09/26/2013	\$1.38	
09/26/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16014039. POSTAGE 09/26/2013	\$4.56	
09/26/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16011861. WEEKLY W/O PEN 09/26/2013	\$0.63	
09/19/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16000107. POSTAGE 09/19/2013 (LEGAL MAIL)	\$7.70	
09/19/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 16000105. POSTAGE 09/19/2013	\$1.58	
09/19/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15999383. WEEKLY W/O PEN 09/19/2013	\$0.63	
09/12/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15986757. POSTAGE 09/12/2013	\$2.12	
09/12/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15986755. POSTAGE 09/12/2013	\$3.42	
09/12/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15986244. WEEKLY W/O PEN 09/12/2013	\$0.63	
09/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15973380. (2)N/L POSTAGE 9/5/2013	\$0.92	
09/05/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15971301. (5) L POSTAGE 9/5/2013	\$5.46	
09/05/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15970306. MONTHLY 09/05/2013	\$0.42	

Account Statement

50 Total Pages

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

July 15, 2014

Daniel E. Cobble
#758572
Hancock State Prison
P.O. Box 339
Sparta, GA 31087

RE: Cobble v. Georgia
GASC Case No. S14C0228

Dear Mr. Cobble:

The above-entitled petition for writ of certiorari was postmarked April 23, 2014 and received May 2, 2014. The papers are returned for the following reason(s):

The appendix to the petition does not contain the following documents required by Rule 14.1(i):

The lower court opinion(s) must be appended from the Court of Appeals case number A02A2145 dated January 15, 2003 and September 25, 2013.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk
By: _____

M. Blalock
(202) 479-3023

Enclosures

*I don't have →
get this I letter on 7-22-14*

Account Statement

COBBLE, DANIEL

Printed By:

WELLS, KATHERINE

GDC ID: 758572

Date	Location Incurred	Obligation Type	Payable To	Obligation Detail	Amount	Paid
09/05/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15970304. WEEKLY W/PEN 09/05/2013	\$0.72	
09/04/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15966377. POSTAGE ADD ON 09/04/2013	\$1.06	
09/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 09/2013	\$1.00	W
08/29/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15853381. POSTAGE 08/29/2013	\$10.00	
08/29/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15852384. WEEKLY W/O PEN 08/29/2013	\$0.63	
08/22/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15840346. POSTAGE 08/22/2013 (LEGAL)	\$6.06	
08/22/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15840342. POSTAGE 08/22/2013	\$2.50	
08/22/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15838820. WEEKLY W/O PEN 8/22/2013	\$0.63	
08/15/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15825066. POSTAGE 08/15/2013	\$8.14	
08/15/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15824433. POSTAGE 08/15/2013	\$1.38	
08/15/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15823562. WEEKLY W/O PEN 08/15/2013	\$0.63	
08/08/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15805227. POSTAGE 5LEGAL 08/08/2013	\$6.26	
08/08/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15803993. POSTAGE 1N/L 08/08/2013	\$0.66	
08/08/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15803461. WEEKLY W/O PEN 08/08/2013	\$0.63	
08/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15792660. POSTAGE SHORT 08/06/2013	\$0.20	
08/05/2013	CENTRAL ACCT-OFFENDER TRUST	FEDERAL COURT FILING FEE	US DISTRICT COURT	RECORD ID = 15791686. NO: 13-13016-D, 75 SPRING ST RM 2211, ATLANTA, GA 30303 1:02- CV-02821-RWS	\$455.00	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15781657. POSTAGE 08/01/2013	\$5.94	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15781652. POSTAGE 08/01/2013	\$2.04	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15781644. POSTAGE 08/01/2013 (SPECIAL MAILING)	\$2.52	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15780707. MONTHLY 08/01/2013	\$0.42	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15780704. WEEKLY W/PEN 08/01/2013	\$0.72	
08/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 08/2013	\$1.00	W

Account Statement

To Clerk Georgia Court of Appeals

RECEIVED IN OFFICE
2014 AUG -8 PM 3:40
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

From Daniel Eric Cobble
#758572
Hancock Correctional Institution
GA State Prison
PO Box 339
Sparta, GA 31087-0000

regards Criminal
case # 10910772

July 15 7/28/14

- ① Please send me a incident report
you 9-10-13 Rules? I don't know it!
- ② Please send me your 4-9-09 Rules?
I don't have it!
- ③ Please look at envelope you sup sent
7/28/14 order that I sent about
by unless you send me about 2 orders
by Georgia Court of Appeals?

- ④ I'm defendant
- ⑤ This is a Criminal case
- ⑥ I'm fees included
- ⑦ I take PSS inside as of
by Daniel Eric Cobble
prepaid defendant

In the Georgia Court of Appeals
State of Georgia

~~State of Georgia~~

State of Georgia

Criminal
#A09A0772

in
2014
order
Georgia court

v.
Daniel Eric Cobble
defendant

motion for Georgia court to appear
to abide by enclosed U.S. Supreme July
15, 2014 order, since I don't have indigent
means to get Georgia court of Appeals 9-10-13
and 4-9-09 Rulers since I don't have your
Rulers I have to send them to Georgia Supreme
but Georgia Supreme never returned them
else I'll be denied access to U.S.
Supreme on this criminal case

please defendant request this

today's 728-14 Daniel Eric Cobble
please petition

Account Statement

COBBLE, DANIEL

Printed By: **WELLS, KATHERINE**

GDC ID: 758572

Date	Location Incurred	Obligation Type	Payable To	Obligation Detail	Amount	Paid
07/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15656767. (5) L POSTAGE 7/25/2013	\$6.32	
07/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15656763. (3) N/L POSTAGE 7/25/2013	\$1.38	
07/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15656027. WEEKLY W/O PEN 7/25/2013	\$0.63	
07/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15642208. POSTAGE 07/18/2013	\$1.78	
07/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15642114. POSTAGE 07/18/2013	\$4.16	
07/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15641527. WEEKLY W/O PEN 07/18/2013	\$0.63	
07/11/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15629835. (1) SM 7/11/2013	\$5.72	
07/11/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15629803. (3) N/L POSTAGE 7/11/2013	\$1.58	
07/11/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15629670. (5) L POSTAGE 7/11/2013	\$2.70	
07/11/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15629070. WEEKLY W/PEN 7/11/2013	\$0.63	
07/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15613550. POSTAGE 07/02/2013	\$6.58	
07/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15613547. POSTAGE 07/02/2013	\$1.78	
07/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15613453. MONTHLY 7/2/2013	\$0.42	
07/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15613452. WEEKLY W/PEN 7/2/2013	\$0.72	
07/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 07/2013	\$1.00	W
06/27/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15499426. POSTAGE SPECIAL MAILING 06/27/2013	\$3.16	
06/27/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15499422. LEGAL POSTAGE 06/27/2013	\$8.10	
06/27/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15498314. POSTAGE 06/27/2013	\$1.38	
06/27/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15497727. WEEKLY W/O PEN 06/27/2013	\$0.63	
06/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15491594. POSTAGE SHORT 06/25/2013	\$0.46	
06/20/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15485342. 06/20/13 POSTAGE	\$9.16	
06/20/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15484720. 06/20/13 W W/O PEN	\$0.63	
06/13/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15471748. POSTAGE 06/13/2013	\$3.62	
06/13/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15470692. WEEKLY W/O PEN 06/13/2013	\$0.63	
06/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15456388. POSTAGE 06/06/2013	\$0.92	

Account Statement

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

July 15, 2014

Daniel E. Cobble
#758572
Hancock State Prison
P.O. Box 339
Sparta, GA 31087

RE: Cobble v. Georgia
GASC Case No. S14C0229

Dear Mr. Cobble:

The above-entitled petition for writ of certiorari was postmarked April 23, 2014 and received May 2, 2014. The papers are returned for the following reason(s):

The appendix to the petition does not contain the following documents required by Rule 14.1(i):

The lower court opinion(s) must be appended from the Court of Appeals in case number A09A0772 dated April 9, 2009 and September 10, 2013.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

When making the required corrections to a petition, no change to the substance of the petition may be made.

Sincerely,
Scott S. Harris, Clerk
By: _____

M. Blalock
(202) 479-3023

Enclosures

I don't have

I got this letter on 7-22-14

Account Statement

COBBLE, DANIEL

Printed By:

WELLS, KATHERINE

GDC ID: 758572

Date	Location Incurred	Obligation Type	Payable To	Obligation Detail	Amount	Paid
06/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15456295. POSTAGE 06/06/2013	\$2.70	
06/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15455599. MONTHLY 6/6/2013	\$0.42	
06/06/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15455594. WEEKLY W/PEN 6/6/2013	\$0.72	
06/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 06/2013	\$1.00	W
05/31/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15332214. POSTAGE 05/31/2013	\$7.10	
05/31/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15330951. WEEKLY W/O PEN 05/31/2013	\$0.63	
05/29/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15322858. 05/29/13 POSTAGE	\$3.10	
05/23/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15312497. POSTAGE 05/23/2013	\$7.50	
05/23/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15311789. POSTAGE 05/23/2013	\$1.38	
05/23/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15310958. WEEKLY W/O PEN 05/23/2013	\$0.63	
05/16/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15297259. POSTAGE 05/16/2013	\$5.08	
05/16/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15294963. 05/16/13 W W/O PEN	\$0.63	
05/09/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15277602. POSTAGE 05/09/2013	\$10.60	
05/09/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15276720. WEEKLY W/O PEN 05/09/2013	\$0.63	
05/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15261838. 05/02/13 POSTAGE	\$9.39	
05/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15259885. 04/02/13 W W/PEN	\$0.72	
05/02/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15259881. 04/02/13 MONTHLY	\$0.42	
05/01/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 05/2013	\$1.00	W
04/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15139124. POSTAGE 04/25/2013	\$0.92	
04/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15139097. 04/25/13 POSTAGE	\$5.82	
04/25/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15137874. WEEKLY W/O PEN 04/25/2013	\$0.63	
04/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15126165. POSTAGE 04/18/2013	\$4.74	
04/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15125908. 04/18/13 POSTAGE	\$1.38	
04/18/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15123976. WEEKLY W/O PEN 04/18/2013	\$0.63	
04/11/2013	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 04/2013	\$1.00	W
04/11/2013	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	BALDWIN STATE PRISON	RECORD ID = 15007267. 04/11/13 POSTAGE	\$7.52	

Account Statement

50 Total Pages

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS**

Date: August 7, 2014

To: Mr. Eric Glos, Post Office Box 331, Ester, Alaska 99725

Docket Number: A14A1924 **Style:** Jeannette Scriven v. Steven Glos, et al.

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **An improper Certificate of Service accompanied your document(s). Rule 6**
5. **Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other

For additional information, you may view our Court Rules on the Court's website at: www.gaappeals.us

IN THE COURT OF APPEALS STATE OF GEORGIA

JEANNETTE SCRIVEN,)	
	)	APPEAL NO. A14A1924
Appellant,)	
v.)	
)	
STEVEN GLOS, et al.,)	
)	
Appellees.)	

ERIC GLOS NOTICE ADVISING OF APPROVAL OF APPEAL

CIVIL ACTION 2012CV221399
FROM FULTON COUNTY SUPERIOR COURT

COMES NOW, ERIC GLOS, and submits this Notice advising of Approval of Appeal. Appellant, JEANNETTE SCRIVEN, should have all of her adoption files unsealed and accessible as she has requested.

Respectfully submitted this 21st day of JULY, 2014.



 ERIC GLOS, APPELLEE
 PO BOX 331, ESTER, AK. 99725

I HEREBY CERTIFY THAT A COPY OF THE FOREGOING WAS MAILED THIS 21st DAY OF JULY, 2014, TO PATRICIA R. HEFFERAN, JEANNETTE SCRIVEN, AND CALANDRA HARPS.



 ERIC GLOS

RECEIVED IN OFFICE
 2014 JUL 28 PM 05 30
 CLERK/COUNT ADMINISTRATOR
 COURT OF APPEALS OF GA

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 12, 2014

Mr. Sylvester Grace
GDC0000699787
Jenkins Correctional Center
3404 Kent Farm Drive
Millen, Georgia 30442

Dear Mr. Grace:

We do not have a case docketed in this Court in your name, as of today's date. Also, Ms. Sparrow is no longer the clerk of the Court of Appeals of Georgia. She retired as of August, 2013.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

8-7-2014

CASE #
1D-CR-00179

Sylvester Grace
000069787
3404 Kent Farm Drive
Milledgeville, Georgia 30442

Dear Mrs Sparrow:

I am writing to you because, I receive a letter stating that you was sent paper's concerning my case case # 1D-CR-00179. The letter stated that you received a copy of original hearing, (1) volume of transcript. The clerk of court of Decatur county, Bainbridge, Georgia District sent me these copies. Mrs. Sparrow could you please send me a copy of what you have so I could know that I have everything on record. I am doing an appeal on a motion that's been denied, so could you please send this information to me please. And could you send any paper's on hold to with this appeal correct. I could like to thank you for your time.

Sylvester Grace
Sylvester Grace



**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

August 7, 2014

To: Ms. Jacqueline Dacosta, 4133 Chapel Lake Drive, Decatur, Georgia 30034

Docket Number: **Style:** **Jacqueline Dacosta v. Lamar Companies d/b/a Lamar Advertising of Atlanta**

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. **No Certificate of Service accompanied your document(s). Rule 6**
8. **Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6**
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. Other:

For Additional information, please go to the Court's website at: www.gaappeals.us

VERIFICATION
(Affidavit)

The undersigned Affiant, JAQUELINE DACOSTA, by appellation does here swear declare *and affirm* that the Affiant executes *this* affidavit with sincere intent and competently states the matters set

Forth. I the undersigned being under oath and declare under penalty of perjury, that I do not have an attorney to represent me in this case. Also, that the contents are true, correct, and not misleading to the best of my knowledge.



JAQUELINE DACOSTA
Plaintiff Pro Se

4133 Chapel Lake Drive
Decatur, GA 30034

Notary Public, DeKalb County, Georgia
My Commission Expires April 7, 2017



COURT OF APPEALS OF

0/2/12/12

Jacqueline Dacosta

APPELLANT

VS

LAMAR COMPANIES DBA
LAMAR ADVERTISING OF ATLANTA

CASE NUMBER

13A 46681-4

APPELLEE

PAUPER'S AFFIDAVIT

Comes now Jacqueline Dacosta (Appellant's name) first being duly sworn, deposes and states I am financially unable to pay the filing fee required for filing costs in the Court of Appeals of Georgia, and I request I be permitted to file Appellant's Application (Appellant's Brief or Appellant's Application) without having to pay filing fees. I further swear that the responses which I have made to the questions and instructions below are true.

1. Are you presently employed? G Yes G No

If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer: N/A

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: MARCH 20th 2013, \$1600 per month.

2. Have you received within the past twelve months any money from any of the following sources?

- Business, profession or form of self-employment? G Yes G No
- Pensions, annuities or life insurance payments? G Yes G No
- Rent payments, interest or dividends? G Yes G No
- Gifts or inheritances? G Yes G No
- Any other sources? G Yes G No

If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months: Self Employment (script related) \$50, Misc job as a nurse Aide \$2200 \$4000 (Rent paid from brother).

IN STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

AMAZ Companies DBA
AMAZ Advertising of Atlanta
Plaintiff

Civil Action No. 13A 46681-4

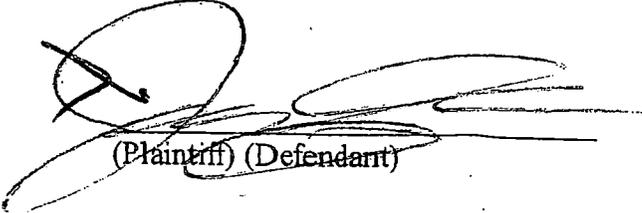
vs.
Caroline D'Acosta
Defendant

AFFIDAVIT OF POVERTY

Comes now Jacqueline D'Acosta herein and after being duly sworn by the undersigned Officer authorized by law to administer oaths, swears and deposes as follows:

I.

That I am (Plaintiff), (Defendant) in the above captioned matter, and I have no funds with which to pay costs on this action.


(Plaintiff) (Defendant)

Sworn to and subscribed before

me this 15th day of July, 20 14.

M. B. Gray
Deputy Clerk/Notary Public

STATE COURT OF
DEKALB COUNTY, GA.
2014 JUL 15 PM 4:15
FILED
BY: M. B. Gray
DEPUTY CLERK

BRIEF IN RESPONSE TO ORDER DATED JULY 25TH, 2014 IN THE STATE COURT OF DEKALB COUNTY

STATE OF GEORGIA

LAMAR COMPANIES d/b/a LAMAR

ADVERTISING OF ATLANTA,

Civil Action File

Vs.

No. 13A-46681-4

JACQUELINE DACOSTA

The appellant re-alleges and re-states the Jurisdictional allegations and General Factual allegations set forth in the Notice of appeal filed July 15th, 2014 to The Superior Court of DeKalb County, and the 53 pages and the Pauper's Affidavit.

The appellant asks this appellate court to consider the following facts as it relates to the State Courts Order July 25th, 2014:

The appellant does not dispute the fact that the appellant's intention was to appeal the judgment styled order on June 13th, 2014; however this appellate court's clerk and the DeKalb Superior Court's clerk required the pauper's affidavit, UNDER PENALTY OF PERJURY, be filed first and be considered first.

The appellant was in this appellate court on July 14th, 2014 and had planned to file this notice of appeal but after speaking with the clerk of this court was told the pauper's affidavit had to be notarized before it could be filed. The clerk did state he could not advise the appellant as to the timing and referred the appellant to obtain legal advice. The appellant is a pauper and cannot afford legal advice so this appellant attempted to file in The Superior Court of DeKalb County. The pauper's affidavit was notarized on the 14th day of July 2014. The appellant was unable to return before the appellate court closed at 4:30pm and the building closed at 5pm. The Superior Court also closed before the appellant could file on the 14th of July 2014.

The appellant filed the appeal immediately the next day on the 15th of July 2014; but was told by the clerk of the Superior Court that a decision on the pauper's affidavit had to be made prior to the filing of the appeal. The appellant consulted O.C.G.A 9-3-99, and asserts that tolling of the statute should be appropriate in this case due to new evidence of fraud, and based on the facts and the circumstances in this case. The appellant believes the statute of limitation should not bar this appeal for one day since the appellant did use due diligence to inquire and to file on the 30th day, but had the legal disability of a pauper, and lacked the legal capacity to pay for filing the appeal, or the legal understanding of the procedure.

The appellant also asserts new evidence of the malicious and fraudulent intent of the appellee as evidenced by the appellee filing an unlawful motion to incarcerate the appellant, and filed that motion on the 17th of July 2014, after learning of the appeal. The appellant believes this appellee has

IN THE STATE COURT OF DEKALB COUNTY

STATE OF GEORGIA

LAMAR COMPANIES d/b/a LAMAR :
ADVERTISING OF ATLANTA, :
 :
Judgment Creditor, : Civil Action File
 :
vs. : No. 13A-46681-4
 :
JACQUELINE DACOSTA d/b/a :
THE CANDY SHOP, :
 :
Judgement Debtor. :

O R D E R

Upon consideration of the Affidavit of Poverty filed by Judgment Debtor on July 15, 2014,¹ and the "53 Pages + Affidavit"² filed therewith; after reviewing these papers and other documents in the file and the Court noting that

- Judgment Debtor is unquestionably attempting to appeal from the judgment (styled "Order") entered herein on June 13, 2014,
- her papers were filed 32 days after the entry³ of the judgment;
- her appeal is thus manifestly untimely; but
- this Court may lack the authority to dismiss her

¹A Tuesday; moreover, the preceding day was not a "public and legal holiday" (OCGA § 1-3-1(d)(3)(2nd sent.)).

²Including, four pages in, a Notice of Appeal.

³OCGA § 5-6-31; OCGA § 5-6-38(a) ("A notice of appeal shall be filed within 30 days after entry of the . . . judgment complained of" - emphasis added); GMC Group, Inc. v. Harsco Corp., 293 Ga. App. 707 (667 SE2d 916) (2008).

APPEAL COVER PAGE
COURT OF APPEALS OF GEORGIA

JACQUELINE DACOSTA

APPELLANT

Vs.

LAMAR COMPANIES DBA

LAMAR ADVERTISING OF ATLANTA

DEKALB COUNTY STATE COURT

CASE #13a46681-4

COURT OF APPEALS DOCKET NUMBER-----

1. This is an appeal from The State Court of DeKalb County Georgia.
2. At all times material to this ruling, Jacqueline DaCosta was a resident of DeKalb County Georgia.
3. At all times material to this ruling. Lamar Companies and its agent, Lamar Advertising of Atlanta was a resident of Gwinnett County.
4. All acts necessary or precedent to the ruling in this lawsuit occurred or accrued in Fulton County Georgia.
5. This Appeals Court has Jurisdiction.

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

LAMAR COMPANIES AND
LAMAR COMPANIES DBA
LAMAR ADVERTISING
OF ATLANTA
Plaintiff

CIVIL ACTION FILE

NO. 13a46681-4

Vs.

JACQUELINE DACOSTA
Defendant

NOTICE OF MOTION

COMES NOW JACQUELINE DACOSTA DEFENDANT in the above -named action and respectfully moves the court to enter a motion to withdraw the motion to Accept Defendant's Answers to Plaintiff's Requests for Admissions, Continuing Interrogatories, and Production of Documents. Defendant files this re-statement of Defendant's Counter-Claim

JURIDICTIONAL ALLEGATIONS

1. This is a complaint for money damages in excess of \$300,000.
2. At all times material to this lawsuit, Jacqueline DACOSTA was a resident of DeKalb County Georgia.
3. At all times material to this lawsuit, LAMAR COMPANIES and its agent, LAMAR COMPANIES dba LAMAR ADVERTISING OF ATLANTA was a resident of Gwinnett County.
4. All acts necessary or precedent to the bringing of this lawsuit occurred or accrued in Fulton County Georgia.
5. This Court has Jurisdiction.

GENERAL FACTUAL ALLEGATIONS

Supreme Court of Georgia Case Transfer Form

Date: 08/05/2014

Case Number: S14D1564

Date of Transfer: 07/21/2014

Briefs/Motions Filed Before Transfer:

<u>Filing Date</u>	<u>Description</u>	<u>Attached?</u>
06/25/2014	Discretionary Application	<input checked="" type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

Briefs/Motions Filed After Transfer:

<u>Filing Date</u>	<u>Description</u>	<u>Attached?</u>
		<input type="checkbox"/>
		<input type="checkbox"/>

Costs:

Cost Paid Date:

Payer:

Payment Type: Credit Card Check Cash

Transaction Number (if applicable):

Receipt Number:

Costs Not Paid: Indigent

RECEIVED IN OFFICE
2014 AUG -6 PM 2:52
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



SUPREME COURT OF GEORGIA

Case No. S14D1564

Atlanta, July 21, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

KENNETH BEAMON v. GAIL TUSAN, JUDGE

From the Superior Court of Fulton County.

Applicant appeals the order denying filing of his "Notice to Void Any and All Contracts." As there appears to be no basis for jurisdiction over this appeal in this Court, the application hereby is transferred to the Court of Appeals.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the Minutes of the Supreme Court of Georgia.

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

Sea C. Pulton, Chief Deputy Clerk

APPLICATION FOR
DISCRETIONARY APPEAL

D2-028

Case No. S14D1564

D2-028

KENNETH BEAMON v. GAIL TUSAN, JUDGE

Trial Court Order: June 06, 2014

Filed: June 25, 2014

Response by: July 07, 2014

Final order due by: July 25, 2014

Grant: _____

Deny: _____

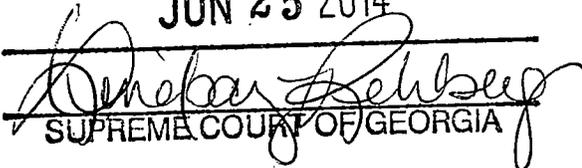
Dismiss: _____

Transfer: _____

Other: _____

RECEIVED BY MAIL
AND FILED:

JUN 25 2014



SUPREME COURT OF GEORGIA

KENNY BEAMON, #1056968

P.O. Box 650

Nicholls, GA 31554

June 30, 2014

RE: NOTICE FOR DISCRETIONARY APPEAL

Case No. _____

Clerk, Supreme Court of Georgia
244 Washington Street, S.W.
Atlanta, GA 30334

NOW Comes, the undersigned and submits this Notice For Discretionary Appeal From the Order denying request to proceed in forma pauperis. This Order is dated 22 day of May, 2014; however, prison legal mail #4707 shows that Petitioner did not receive Order until June 18, 2014.

According to the GA. Const., the Supreme Court retains exclusive jurisdiction.

This 30 day of June, 2014

Kenny Beaman
151

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

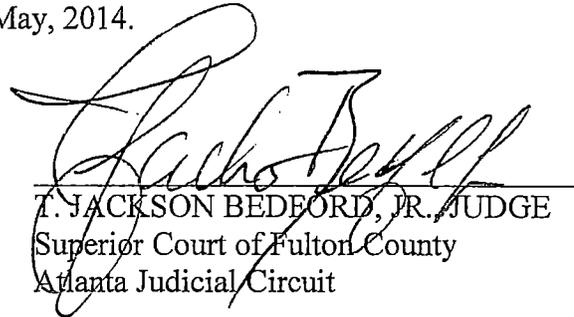
KENNETH BEAMON,
Petitioner,
v.
GAIL TUSAN,
Respondent.

)
)
)
)
) Civil Action Number:
)
)
)
) JUDGE BEDFORD
)
)
)
)
)
)
)

ORDER

Petitioner has asked the Court to allow him to proceed *in forma pauperis* in a civil matter against Judge Gail Tusan. This Court finds that the pleading shows, on its face, a complete absence of any justiciable issue of law and fact for which the Court could grant any relief against Respondent. Accordingly, this Court **HEREBY DENIES** Petitioner's request to proceed *in forma pauperis* and DIRECTS the CLERK to deny filing the pleading.

SO ORDERED this 22nd day of May, 2014.


T. JACKSON BEDEFORD, JR. JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

Copies to:
Kenny Beamon, # 1056968
Coffee Correctional Facility
P.O. Box 650
Nicholls, GA 31554

TINA ROBINSON
CLERK OF SUPERIOR COURT
FULTON COUNTY
(404) 730-5313

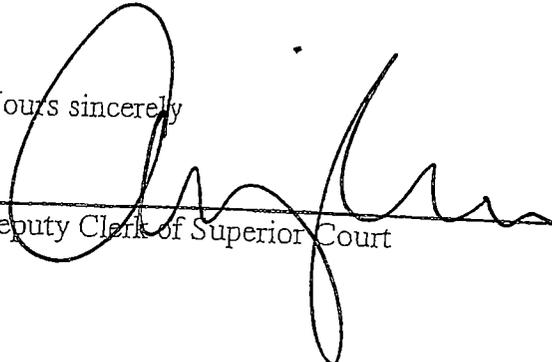


ATLANTA JUDICIAL CIRCUIT

To: Kenneth Beamon

Enclosed is an original copy of the order denying your request to file a writ of mandamus as a pauper.

Yours sincerely


Deputy Clerk of Superior Court

6/6/14

Date

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

KENNY BEAMON

Plaintiff

1056968

Inmate Number

Civil Action No. _____

Gail Tusan

vs.

Nature of Action: _____

NOTICE TO VOID ANY AND ALL CONTRACTS

NOTICE FOR PROOF OF SUBJECT MATTER JURISDICTION

Defendant(s)

REQUEST TO PROCEED IN FORMA PAUPERIS

I, KENNY BEAMON, depose and say that I am the plaintiff in the above entitled case; that in support of my request to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress. I further swear that the responses which I have made to questions and instructions below are true.

1. List any and all aliases by which you are known: N/A

2. Are you presently employed? Yes No
If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer: N/A

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: N/A

3. Have you received within the past twelve months any money from any of the following sources?
- Business, profession or form of self-employment? Yes No
 - Pensions, annuities or life insurance payments? Yes No
 - Rent payments, interest or dividends? Yes No
 - Gifts or inheritances? Yes No
 - Any other sources? Yes No

Account Statement

BEAMAN, KENNETH

Printed By:

STEED, MARIE

GDC ID: 1056968

Spendable Amount	Reserved Amount	Receipts On Hold	Funds Balance	Obligations/Court Charges
\$0.00	\$0.00	\$0.00	\$0.00	\$4.84

RECEIPTS

Receipt Date	Transaction ID	Receipt Type	Receipt Details	Receipt Amount
11/24/2008	5548737	MAIL ROOM RECEIPT	MILDRED WHITESIDE - UPS11873199047	\$100.00
10/20/2008	5417059	MAIL ROOM RECEIPT	MILDRED WHITEHEAD - USP 11873148603	\$30.00
09/10/2008	5262368	MAIL ROOM RECEIPT	MILDRED WHITESIDE - 11873182184	\$40.00
07/25/2008	5074928	MAIL ROOM RECEIPT	MILKE WHITEIL - 12159408611	\$40.00
07/08/2008	5000436	MAIL ROOM RECEIPT	JAMES WHITE - 1187136800	\$50.00
06/02/2008	4846652	MAIL ROOM RECEIPT	MILDRAD WHITESIDE - 11873156242	\$30.00
05/21/2008	4812465	MAIL ROOM RECEIPT	KISHA BEAMON - 12238197827	\$20.00
04/30/2008	4719689	MAIL ROOM RECEIPT	MILDRED WHITESIDE - USP 11873134225	\$30.00
04/07/2008	4627889	ADMISSION RECEIPT	TELFAIR STATE PRISON - 22788	\$10.06

WITHDRAWALS

Date	Location Paid	Withdrawal Type	Payable To	Detail	Amount	Check No
01/08/2009	HANCOCK STATE PRISON	CONSOLIDATE BANKING CONVERSION	GDC	CONSOLIDATE BANKING CONVERSION - Reserve Amount.	\$10.00	27787
01/01/2009	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee 01/2009	\$0.09	27847
12/04/2008	HANCOCK STATE PRISON	STORE PURCHASE	HANCOCK STATE PRISON	STORE PURCHASE	\$8.00	27688
12/02/2008	HANCOCK STATE PRISON	STORE PURCHASE	HANCOCK STATE PRISON	STORE PURCHASE	(\$0.60)	27677
12/02/2008	HANCOCK STATE PRISON	STORE PURCHASE	HANCOCK STATE PRISON	STORE PURCHASE	\$32.20	27677
12/01/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee 12/2008	\$1.00	27846
11/24/2008	HANCOCK STATE PRISON	STORE PURCHASE	HANCOCK STATE PRISON	STORE PURCHASE	\$59.60	27642
11/01/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee 11/2008	\$1.00	27655
10/21/2008	HANCOCK STATE PRISON	STORE PURCHASE	HANCOCK STATE PRISON	STORE PURCHASE	\$25.40	27523
10/20/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	MONTHLY PROCESSING FEE FOR 10/2008	\$1.00	27559
10/20/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	RECORD ID = 6383481. 9-18-08LEGALSUPPLIES	\$0.80	27557
10/20/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	RECORD ID = 6463038. 9-30-08 LEGALSUPPLIES	\$0.60	27557
10/20/2008	HANCOCK STATE PRISON	WITHDRAWAL FOR OBLIGATION	GEORGIA DEPARTMENT OF CORRECTIONS	RECORD ID = 6466765. 10-9-08LEGALSUPPLIES	\$0.80	27557

CERTIFICATE OF SERVICE

I hereby certify that I have served the Within, by placing in the U.S. Mail with adequate postage duly addressed upon:

Clerk, Supreme Court
244 Washington Street
Atlanta, GA 30334

Judge, T. Jackson Bedford
185 Central Avenue
Atlanta, GA 30303

Kenny Benman

¹⁵⁷
Kenny Benman, #1056968
1153 North Liberty Street
P.O. Box 650, Coffee Corv. Facility
Nickalls, GA 31554

FILED IN OFFICE
JUN 26 2014
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

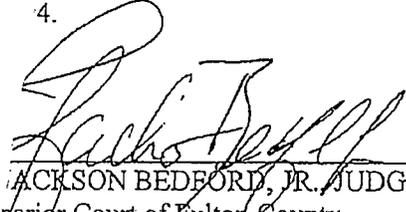
Number:

4 CV 240982

FORD

in forma pauperis in a civil matter
ing shows, on its face, a complete
Court could grant any relief against
S Petitioner's request to proceed *in*
e pleading.

4.


JACKSON BEDEFORD, JR. JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

CCA/Coffee Correctional Facility
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The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 11, 2014

Michael M. Day, Esq.
Kanner & Pitaluga, P.A.
1280 West Peachtree Street, N.W.
Suite 210
Atlanta, Georgia 30309

RE: Admission Application

Dear Mr. Day:

Attached please find your Admission Application and Oath dated December 4, 2013 by Judge David E. French. We are returning these to you as it appears they were sent by mistake. You may download the form and all pertinent information for admission to our Court at: www.gaappeals.us.

I am also enclosing your check #5440 drawn on JPMorgan Chase Bank, N.A. and made payable to the Georgia Court of Appeals in the amount of \$30.00.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

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THE LAW OFFICES OF KANNER & PINTALUGA, PA
OPERATING ACCOUNT GEORGIA
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DELRAY BEACH, FL 33444

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7/30/2014

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Georgia Court of Appeals



AUTHORIZED SIGNATURE

MEMO

admission fee

Security features. Details on back.

⑈005440⑈ ⑆267084131⑆ 530680573⑈

Court of Appeals

Admission Application

State of Georgia Bar Number: 952648 Superior Court of Fulton County
Date Admitted: October 2013

The petitioner, having been regularly admitted and licensed to practice law in the superior courts of this State, and being a member in good standing of the State Bar of Georgia, respectfully applies for admission to the bar of this Court.

Last Name: Day First Name: Michael Middle Name: Mentink

Signature: Michael M. Day

Firm or Agency: Kanner & Pintaluga, P.A.

Mailing Address (Business address preferred. If business address, include firm or agency name):

Kanner & Pintaluga, P.A.
1200 West Peachtree St. W.W. Ste 210
Atlanta, GA 30309

We hereby certify that we are members of the bar of the Court of Appeals of Georgia, that we know the above applicant personally and that her/his private and professional character is good.

Bar Number: 388760 Printed Name: Adam Jaffe

Signature: [Signature]

Bar Number: 110007 Printed Name: Mark Kirshen

Signature: [Signature]

Attorney Roll
(Please sign after the Oath has been administered)
Michael M. Day

FOR CLERK'S OFFICE USE ONLY

Date of Admission: _____

Admission by: In Court _____ Judge _____ Clerk _____

OATH

I do solemnly swear (or affirm) that I will conduct myself as an attorney or counselor of the Court of Appeals of Georgia, truly and honestly, justly and uprightly and according to law; and that I will support the Constitution of the State of Georgia and the Constitution of the United States. So help me God.

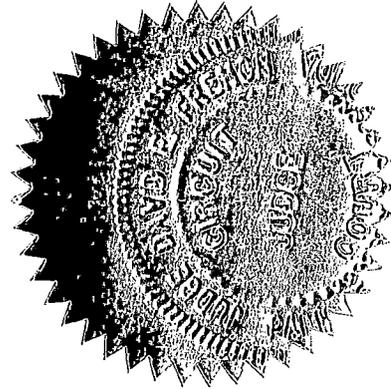
This is to certify that I, DAVID E. FRENCH Judge of the 15th CIRCUIT
For Palm Beach Florida have sworn and subscribed the above oath to Michael M. Day this
the 4 day of December, 2013.

David E. French

Signature

Circuit Judge

Title



This is to certify that I, _____ Clerk of the _____
Court of _____, certify that the above named official is a Judge of the
_____ Court of _____.

Signature

Title

_____ day of _____, 201_____

(SEAL)

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 12, 2014

Mr. Henry L. Dobbs
GDC511239
Riverbend Correctional Facility
198 Laying Farm Road
Milledgeville, Georgia 31061

Dear Mr. Dobbs:

Please contact the Douglas County Superior Court with any questions you may have in the processing of your Affidavit of Poverty in that Court. This Court cannot assist you. I am returning your documents to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

Decatur County, Georgia



Cecilia Willis
Clerk of Court

P.O. Box 336
Bainbridge, Georgia 39818
229-248-3025

HONORABLE HOLLY O. K. SPARROW
CLERK, COURT OF APPEALS OF GEORGIA
47 TRINITY AVENUE SUITE 501
ATLANTA, GEORGIA 30334

RE: STATE OF GEORGIA
VS.
SYLVESTER GRACE
2010CR179

Dear Ms. Sparrow:

I, enclose for filing the record and (1) volume of transcript
which is the original of hearings and trial as filed by the Court
Reporter in the above referenced case.

If further assistance is needed, please advise.

Sincerely,


Cecilia Willis, Clerk
Superior Court, Decatur County

Copies: **Joseph Mulholland, District Attorney**
Billy Grantham, Attorney At Law (Original Sentence)
Patrick Chisholm, Attorney At Law (Probation Revocation)
Sylvester Grace, Defendant

August 8, 2014

Stephen E. Castlen,

I Filed a Notice of Appeal in the Superior Court of Douglas County. The court denied my Affidavit of poverty ^{with} giving a reason. Can I be force to have my Notice of Appeal dismissed because I do not have the money to pay the Appeal cost. I sent the clerk a certified copy of an Affidavit of poverty filed under OCGA § 9-15-2 to ask that I be relieved from paying the court cost. Along with the certification of my account from the business Administrator of this facility, to show I am unable to pay the required court cost. Can you tell me what I need to do.

Thank you,

Henry L. Dobbs # 511239

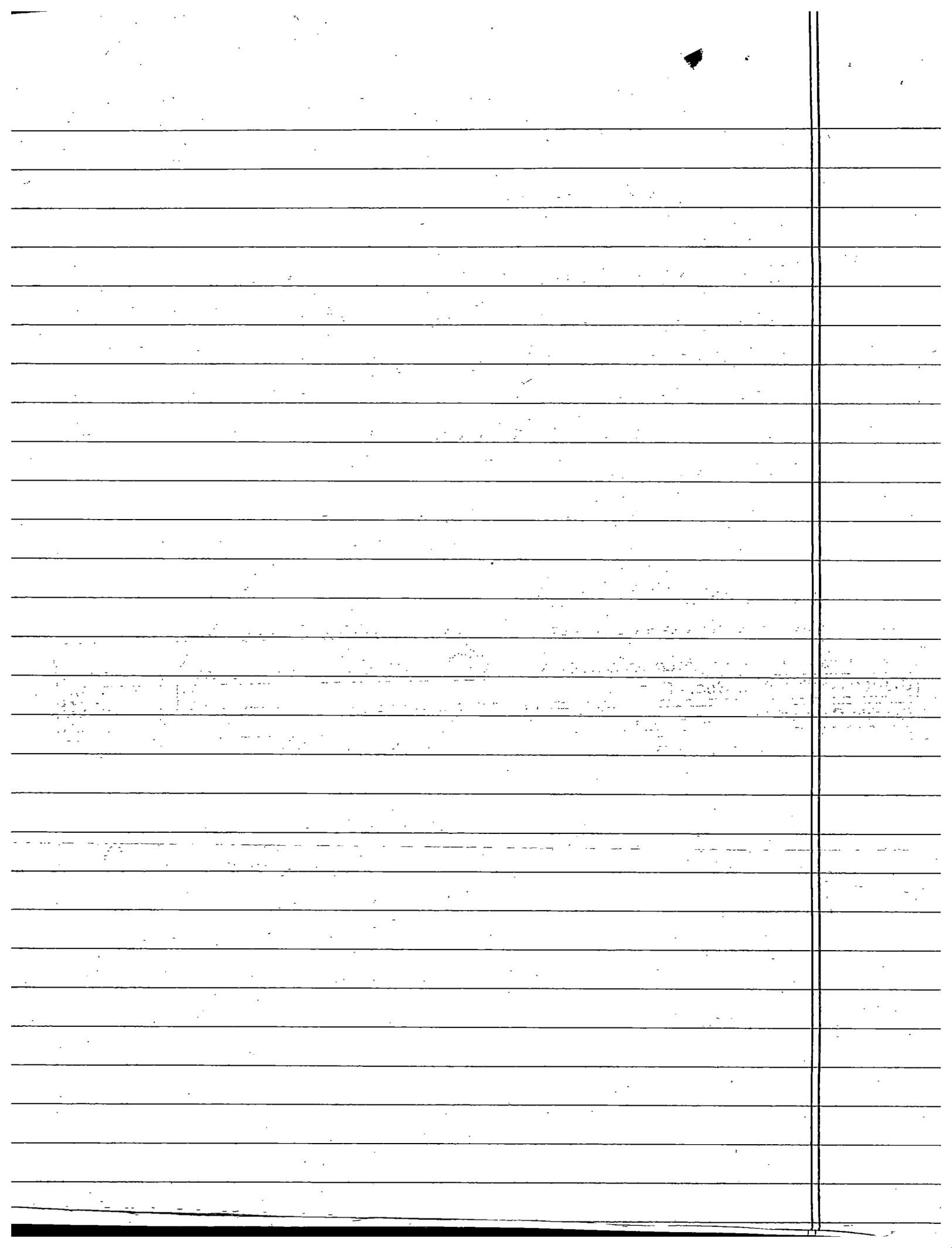
Riverbend C.F

198 Haying Farm Road
Milledgeville Ga. 31061

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**TAMMY M. HOWARD
CLERK OF SUPERIOR COURT
CLERK OF STATE COURT**

Tammy T. Ayers, Chief Deputy Clerk
tayers@co.douglas.ga.us

Hazel Burton, Office Manager
hburton@co.douglas.ga.us

July 31, 2014

HENRY LOUIS DOBBS GDC # 511239
RIVERBEND CORRECTIONAL FACILITY
198 LAYING FARM ROAD
MILLEDGEVILLE, GA 31061

CASE NO. 10CR01027-A

HENRY LOUIS DOBBS
VS
STATE OF GEORGIA

Appeal Cost – 15-6-77 (g)(12)

Clerk's Certificate & Seal - Record	\$	2.00
Clerk's Certificate & Seal – Transcript	\$	35.00
265 Pages @ \$1.00 Per Page	\$	265.00
Total Due	\$	302.00

PLEASE NOTE: Please find enclosed a copy of an Order denying your request to proceed with your Appeal Record as a Pauper, filed 7/24/14. You must pay the above costs if you choose to proceed with your Notice of Appeal. If the above costs are not paid in a reasonable amount of time your Notice of Appeal will be dismissed due to not paying these costs to prepare the appeal record.

Return this statement with payment

Thank you,

Appeal Clerk
770-920-7256

8700 Hospital Drive, Douglasville, Georgia 30134
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clerkssuperiorcourt@co.douglas.ga.us

ORIGINAL

SCANNED

IN THE SUPERIOR COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

STATE OF GEORGIA
Plaintiff

Versus

CASE NO. 10CR01027-A

FILED

HENRY LOUIS DOBBS
Defendant

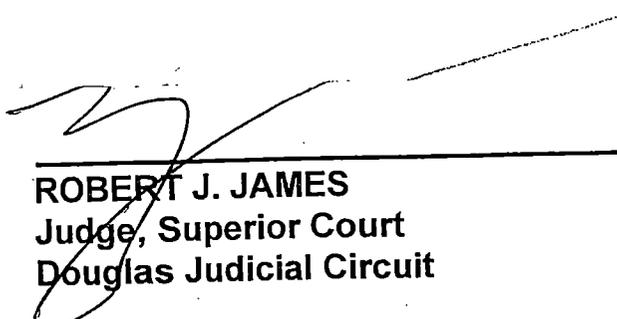
JUL 24 2014

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

ORDER

Having been read and considered, Defendant's Request to Proceed in Forma
Pauperis is hereby DENIED.

SO ORDERED this July 24, 2014.


ROBERT J. JAMES
Judge, Superior Court
Douglas Judicial Circuit

JUDGE'S DISTRIBUTION LIST:

HENRY, DOBBS, #511239, 198 LAYING FARM RD, RIVERBEND CORRECTIONAL FACILITY, MILLEDGEVILLE, GA, 31061
BONNIE K SMITH, DISTRICT ATTORNEY, 870, HOSPITAL DRIVE, DISTRICT ATTORNEY'S OFFICE, DOUGLASVILLE, GA,
30173

*Copy
11/31/14
LH*

FILED

JUL 24 2014

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS**

Date: August 13, 2014

To: Dorminey & Cox, LLC, A. Blair Dorminey, P.O. Box 8082, Athens, GA 30603

Docket Number: A14A1851

Style: Board of Regents of the University System
of Georgia v. Peter Winter

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s).Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. **Other: You cannot file an Amended Brief until the Court makes a ruling on your Motion.**

For Additional information, please go to the Court's website at: www.gaappeals.us

IN THE COURT OF APPEALS
STATE OF GEORGIA

BOARD OF REGENTS OF THE)
UNIVERSITY SYSTEM OF)
GEORGIA,)
)
Appellant,)
)
v.)
)
PETER WINTER,)
)
Appellee.)

Case No. A14A1851

BRIEF OF APPELLEE

A. Blair Dorminey
Attorney for Appellee
State Bar No. 225932

~~FILED IN OFFICE
AUG 06 2014
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COURT OF APPEALS OF GA~~

IN THE COURT OF APPEALS
STATE OF GEORGIA

BOARD OF REGENTS OF THE)	
UNIVERSITY SYSTEM OF)	
GEORGIA,)	
)	
Appellant,	)	Case No. A14A1851
)	
v.)	
)	
PETER WINTER,)	
)	
Appellee.)	

BRIEF OF APPELLEE

COMES NOW, Peter Winter, Appellee, and files his reply brief:

Part One

STATEMENT OF FACTS

Appellee demurs to the Appellant's statement of facts, and shows:
Appellee first contacted Appellant on May 23, 2005, emailing Dr. Rene Alvarez in the Department of Infectious Diseases at the University of Georgia (UGA), seeking postdoctoral employment. R 306. Appellee had recently finished working as a research fellow at the University of Kansas (KU) on a J-1 exchange visitor visa, which was soon to expire. R 357-358; 1034. An immigration officer in Kansas advised Appellee to file an application to change status (COS) to a B visa that would permit him to remain in the U.S. until he could find a new employer and pursue

reinstatement and transfer of his J-1 visa. R 363. On May 26, Appellee filed a timely COS from J-1 to B visa classification. R 1048; 1032. During the pendency of his B visa application, Appellee accrued no unlawful presence and was not out of status, contrary to misstatements by UGA officials. R 1032.

Dr. Alvarez and Appellee exchanged further emails, and on May 31, 2005, Appellee wrote to Dr. Alvarez, "I [am] able to relocate fairly quickly to start the position with many of my arrangements being able to be completed in the period between receiving a formal offer and completion of the paper work. Therefore the actual estimate of a start date will depend on how swift[ly] the paperwork could be completed." R 302. The next day, Dr. Alvarez wrote, "In regards to salary, we can use the NIH guidelines, so the salary can be adjusted based on your CV." Appellee replied the same day, saying he looked forward to hearing about the next steps. R 308.

On June 2, 2005, Dr. Alvarez emailed Appellee, "If you are interested in coming to our labs, I can draw up a formal offer and begin the process of the paperwork that would be required to get you started. What I would need, is a putative start date. *** Please let me know how you would like to proceed." R 307-308. Appellee replied to Dr. Alvarez the same day, June 2, 2005, writing, "*Yes, I would be interested in joining the lab, and therefore I*

look forward to receiving the formal offer in the near future. If it is possible to move the start date as needed subject to the paperwork I believe a good start date would be the 27th June 2005. I hope this will fit in with your schedule – however I am flexible but know how long paperwork can take to complete. I therefore look forward to hearing from you again in the near future – and if there is anything I can do to assist this process please do not hesitate in contacting me.” (Emphasis added.) R 307. On the same day, Dr. Alvarez acknowledged Appellee’s acceptance by return email, writing, “*I am glad you have chosen to join our labs. I will begin the paperwork tomorrow and forward a formal offer to you.*” (Emphasis added.) R 307.

On June 6, 2005, Dr. Alvarez emailed Appellee a signed letter confirming his offer of a position as a research Postdoctoral fellow in Infectious Diseases, and outlining job duties. R 292. The letter stated that the position would be a 12-month appointment, to begin July 1, 2005, with a salary of \$38,712, to be reviewed on an annual basis. R 292. Dr. Alvarez subsequently sent a revised signed offer letter, dated June 6, 2005, to Appellee, identical to the original except for a revised start date of August 1, 2005. R 293. Neither offer letter from Dr. Alvarez stated any condition regarding, nor otherwise referenced, Appellee’s immigration status or a visa. R 292; 293.

In offering employment to Appellee, a non-citizen, UGA undertook to sponsor him for an appropriate non-immigrant employment visa, i.e. either a J-1 or an H-1B visa. 8 C.F.R. Sec. 214.2(h)(4); 8 C.F.R. Sec. 214.2(j); R 845. As a postdoctoral research scholar in virology, Appellee was eligible for an H-1B visa, 8 C.F.R. Sec. 214.2(h)(4), and also a J-1 exchange visitor status. <http://j1visa.state.gov/programs/>. UGA solely was in a position to file the paperwork necessary to obtain for Appellee one of the two non-immigrant visa classifications – H-1B or J-1 – appropriate to him as a postdoctoral research fellow. In the H-1B application process, the employer must first obtain certification from the Department of Labor that it has filed a Labor Condition Application (LCA), C.F.R. Sec. 214.2(h)(i)(B)(1), and then file a Form I-129 petition for nonimmigrant worker on behalf of the H-1B beneficiary. C.F.R. Sec. 214.2(h)(1)(i) and (2)(A). The H-1B beneficiary, Appellee, could not file the LCA or the H-1B petition on his own behalf. Ibid.

On June 8, 2005, Appellee completed and returned a Recommendation for Faculty Appointment form, bearing his name, and written in his own hand. R 803. On June 13, 2005, Dr. Alvarez sent an email to Appellee, writing, “I was just wondering how things are progressing with Janelle Kelley [Dept. office manager] on beginning your position here.” R 314.

Appellee responded by email the same day, informing Dr. Alvarez that he had “not heard/received anything after sending the required completed forms to [Janelle Kelley].” R 314.

On June 16, 2005, Appellee sent an email to Ms. Kelley, seeking to confirm UGA’s receipt of confirmation of his PhD from the University of Liverpool. R 354. Appellee wrote Kelley, “Could you please let me know when you do, if you have not already, and what the next steps are.” R 354.

On June 23, 2005, Appellee emailed Dr. Alvarez, stating, “As it has been 10 days since I have heard from you I thought I had better just contact you to see how things were progressing. Also I have still not received the hard copy of the formal offer you emailed me. R 325. On the same day, Dr. Alvarez emailed Appellee, “I apologize for the delay in getting you the paperwork and approval. *** I will check with Janelle Kelly to see where the problem is and will get back to you ASAP.” R 324. Later, on June 23, Dr. Alvarez emailed Appellee, “I just received notice from Janelle Kelly that your degree certification was just received. We are still on track to start by July 1st.” R 326-327.

On June 23, Appellee emailed Dr. Alvarez, inquiring, “Where no one has contacted me yet concerning the position I am unaware of whether any action has yet been taken concerning my visa? Or this will be organized

following confirmation of the position?” R 326. Dr. Alvarez replied the same day, “Good question. Let me see what I can find out for you.” R 326.

On June 24, Dr. Alvarez emailed Kelley, asking, “Can you please let me know what the process is for helping Dr. Winter’s (sic) obtain his Visa for this position? Does he work with UGA HR for this? Sorry for any inconvenience, but this is our first time hiring an international applicant.” R 332. Ms. Kelley emailed Dr. Alvarez the same day, “We have to determine which type of Visa he will need and then I can assist him with the paperwork.” R 332. Dr. Alvarez emailed Ms. Kelley the same day, “I will have Peter contact you to determine which Visa is appropriate.” R 332. Later the same day, Appellee emailed Dr. Alvarez, “I contacted Janelle earlier this afternoon and...[s]he will be organizing the required paperwork with the visa officer at uga and myself.” R 332.

On June 27, Dr. Alvarez emailed Appellee, “Thank you for the update. Please let me know if you need anything from me. Do you still think you can make the July 1st start date?” R 331. Appellee replied the same day, “I do not believe the paperwork will be completed by July 1st and therefore it will be a later date.” R 331.

On July 13, Ms. Kelley emailed Appellee, “Tammy and I are working on your H-1B visa. She has requested a copy of your entire application

packet for B-Visa. Please fax it to me ASAP.” R 345. Appellee replied to Kelley, the same day, advising that he had applied online, and that he could send a printout, if needed. R 343.

On the afternoon of July 13, Kelley sent an email to Appellee, requesting documents needed to process an H-1B petition on his behalf. R 347. The next day, Appellee responded, providing the requested information by email. R 357-358.

Even though Appellee had filed an application to change his visa status to B classification before he received a job offer from Appellant, he was nonetheless eligible for “correction,” reinstatement, and transfer of his SEVIS record from his previous J-1 exchange visitor sponsor, U. of Kansas, to UGA, and, in fact, at Appellee’s request made on August 3, KU did successfully reinstate and transfer his J-1 to UGA. R 407; 473. UGA claimed his SEVIS record, and Appellee was in J-1 status by August 10, 2005. R 473; 775; 152. Appellee had employment authorization as an incident of his J-1 status. C.F.R. Sec. 274a.12. UGA put Appellee on its payroll on August 12, 2005. R 474; 297.

On August 12, Ms. Kelley, as the designee of the Department of Infectious Diseases, certified that Appellee had been hired at UGA as regular

faculty in the position of Postdoctoral Research Associate to start on August 1, 2005. R 297. Appellee was assigned an employee ID number. R 297.

On August 12, Appellee, as “an employee of the University System of Georgia,” signed in his own hand, on paper, a Loyalty Oath to the Constitutions of the United States and of the State of Georgia. R 799. On the same day, Appellee also signed a written Intellectual Property Agreement with Appellant, stipulating that “[a]s part of the consideration for my employment by the University of Georgia, I understand and agree that the University of Georgia and the University of Georgia Research Foundation, Inc., have an interest in any intellectual property that I may make or develop while an employee of the University....” R 800. Ms. Kelley also signed the agreement. R 800.

On August 15, both Appellee and Sandy Haagen, Alternate Responsible Officer, Exchange Visitor Program, UGA, signed a form DS-2019 Certificate of Eligibility for Exchange Visitor (J-1) Status, extending the on-going program of Appellee as a Research Scholar in Virology until June 30, 2006. R 776; 296; 1101. Ms. Haagen forwarded the Form DS-2019 to Appellee for use in transferring Appellee’s J-1 from KU to UGA. R 296.

On August 16, Dr. Fred Quinn, department head, signed an employee personnel report for the College of Veterinary Medicine, naming Appellee as

a new UGA employee, and giving instructions to put Appellee on the payroll for one month. R 797.

Meanwhile, Appellee sent USCIS a request to withdraw the application he had filed in May for a change of status from J-1 to B classification. R 133; 431. However, it did not reach USCIS in time, and on August 12, 2005, USCIS mailed a Form I-797A Approval Notice to Appellee, informing him that his Form I-539 application to change status from J-1 to B-2 classification had been approved. R 1013.

On August 18, 2005, UGA's Office of International Education advised Appellee that the only immigration option he had remaining after inactivation of his SEVIS record and cancellation of his J-1 status, due to approval of the change of status to B classification, was to apply for an H-1B visa. R 152. At least as early as August 17, the date on which UGA became aware that Appellee's application for the change of status to B-2 classification had been approved, UGA could have filed an H-1B petition on Appellee's behalf. R 152. The COS filing receipt, receipt number, and USCIS online Case Status Report showing approval of the COS were sufficient proof of approval of the B-2 visa to permit UGA to file an H-1B petition package on Appellee's behalf. R 678-679. For an additional \$1000 fee, USCIS's Premium Processing Service (Form I-907) was available to UGA to obtain guaranteed

15-calendar day processing of the H-1B petition on Appellee's behalf. DHS, Office of Business Liaison, Employer Info. Bulletin 21, March 15, 2005. In 2005, USCIS routinely processed H-1B filings that were filed with Premium Processing in fewer than 15 calendar days, often in seven days or fewer.

Ibid. If UGA had filed an H-1B petition on Appellee's behalf, using Premium Processing, on August 17, USCIS would have guaranteed processing by no later than September 1, and likely by August 24 or earlier. Ibid.

Federal regulations prohibit an employer from requiring an H-1B worker to pay any part of the employer's business expenses, including premium processing, if it would depress the employee's wages below the required wage. 20 C.F.R. Sec. 655.732(c)(12); C.F.R. Sec. 655.731(c)(9)(ii) and (iii)(C). Where an employer has an immediate need or desire for a foreign national to begin work, payment for premium processing by an H-1B worker is an unauthorized deduction from pay. U.S. Dept. of Labor, Wage and Hour Division, Fact Sheet #62H. An H-1B employer may be liable for civil money penalties for payment of the premium processing fee by an H-1B employee. 20 C.F.R. Secs. 655.810(b)(1)(v) & (e)(1); *see* U.S. Dept. of Labor, *Morales Toia v. Gardner Family Care Corp.*, Case No. 2007-LCA-00006, April 25, 2008.

Even though he was desperately short on funds, on September 2, Appellee nonetheless wrote a check for \$315 for visa fees in an effort to get UGA to file an H-1B petition on his behalf. R 301.

On September 9, Dr. Alvarez emailed Appellee, saying, “Dr. Quinn has clearly stated to all parties involved that he will not commit department money to the visa process. The manner by which you process your visa application is in your hands.” R 760.

Dr. Ralph Tripp, head of the lab that hired Appellee, arbitrarily set September 16, 2005, as a deadline for Appellee to be in a nonimmigrant visa classification with employment authorization. R 760; 905. Dr. Tripp sent Appellee a letter, dated September 14, 2005, informing him that he was “rescinding [his] offer” of a postdoctoral position in his lab. R 299.

Although Appellee was dependent on UGA to file the H-1B petition on his behalf, as a beneficiary cannot file an H-1B petition for himself, C.F.R. Sec. 214.2(h)(1)(i) and (2)(A), UGA never filed. R 152.

Part Two

ARGUMENT AND CITATION OF AUTHORITY

- I. A Written Employment Contract Existed Between Appellant and Appellee, and, Consequently, Sovereign Immunity is Waived.**

An express waiver of sovereign immunity exists for actions against agencies of the State for breach of a written contract. Ga. Const. Art. I, Sec. II, Par. IX(c); O.C.G.A. Sec. 50-21-1. Appellant claims sovereign immunity by asserting the absence of a written contract between Appellee and Appellant, and cites four cases in support of its contention – *Bd. of Regents v. Ruff*, 315 Ga.App. 452 (2012); *Dept. of Comm. Health v. Data Inquiry, LLC*, 313 Ga.App. 683 (2012); *Kennedy v. Georgia Dept. of Human Res. Child Support Enforcement*, 286 Ga.App. 222 (2007); and *Bd. of Regents v. Tyson*, 261 Ga. 368 (1991). However, these cases actually support the trial court’s finding of the existence of a written contract. The central principle of *Ruff*, *Data Inquiry*, and *Tyson* comes from the touchstone case of *Baker v. Jellibeans, Inc.*, 252 Ga. 458, which states “that as long as all the necessary terms are contained in signed contemporaneous writings, the statutory requirements and purpose of the Statute of Frauds have been met, whether or not the writings are cross-referenced.” *Baker v. Jellibeans*, at 459. Very importantly, *Jellibeans* rejects Appellant’s contention that both parties must sign a single document for a written contract to exist, noting that a party “incorrectly assumes ... that the whole agreement must be contained in one signed writing sought to be enforced.” *Jellibeans*, at 459, citing *North v.*

Mendel, 73 Ga. 400(2) (1884); *Turner v. Lorillard Co.*, 100 Ga. 645, 650 (1897).

In *Bd. of Regents v. Tyson*, the Georgia Supreme Court noted that “[a]t the heart of Tyson’s case is the principle that a written contract can consist of multiple documents. This court expressed that principle in *Baker v.*

Jellibeans (citation omitted), “holding that multiple documents may be considered together as a single contract ‘... as long as all the necessary terms are contained in signed contemporaneous writings.’” *Tyson*, at 559.

However, in *Tyson*, unlike in the instant case, the Court noted that “nowhere in the hospital record relied upon by Tyson is any signed writing establishing the essential term of ‘consideration moving to the contract ...” *Id.* However, here, as the trial court noted in its Order (R 1439) denying Appellant’s motion for summary judgment, several signed, written documents exist, which constitute an enforceable written contract. “Chief among these signed documents are: a loyalty oath [R 799]; an intellectual property agreement [R 800]; and a certificate of eligibility for exchange visitor status [R 1101].” Order, at 5. R 1439. In particular, the trial court singled out the Intellectual Property Agreement (R 800), and cited and highlighted its language:

As a part of the consideration for my employment by the University of Georgia, I understand and agree that the

University of Georgia and the University of Georgia Research Foundation, Inc., have an interest in any intellectual property that I may make or develop while an employee of the University to the extent and degree stated in the Intellectual Property Policy of the University as they may be amended from time to time. I will abide by the University of Georgia Intellectual Property Policy, including any amendments to it adopted from time to time, and I will execute any assignment or other documents necessary to comply with its terms.

Order, at 5. R 1439.

Noted the trial court:

This document constitutes evidence that Dr. Alvarez's offer was validly accepted. Not only does this document acknowledge an acceptance of employment, it itself provides consideration for a binding contract. [T]he language of the document recites that the intellectual property agreement [R 800] was 'a part of the consideration of [his] employment.' Accordingly, as the collection of writings between the parties are (sic) sufficient to constitute a written contract in terms to be enforceable, summary judgment is not authorized on the issue of sovereign immunity.

Ibid.

In a case directly on point, and remarkably similar to this one, *Bd. of Regents v. Doe*, 278 Ga.App. 878, the Board of Regents, here the Appellant, argued that there was no formal written employment contract between Georgia Tech and Doe, the new management school dean, but simply an “informal offer” of employment, where the Provost of Georgia Tech had sent Doe a letter proposing specific terms of employment, including salary and fringe benefits, and Doe had accepted. This Court rejected the Board of Regent’s contention, finding:

A valid written contract may be formed when there are multiple signed, contemporaneous agreements between the parties which demonstrate their intent to enter into a binding contract and the individual documents, considered together, include all of the necessary terms of a contract.

Bd. of Regents v. Doe, at 881, citing *Baker v. Jellibbeans, Inc.*, 252 Ga. 458, 459(1), 314 S.E. 2d 874 (1984).

Ruff and *Data Inquiry*, relied upon by Appellant, follow *Bd. of Regents v. Doe*. For example, this Court in *Data Inquiry* held that:

Even if the undisputed evidence shows that no valid written contract between the parties actually exists, however, a court

may still find that a valid written contract has been formed
‘where there are multiple signed, contemporaneous agreements
between the parties which demonstrate their intent to enter into a
binding contract and the individual documents, considered
together, include all of the necessary terms of a contract.

Georgia Dept. of Community Health v. Data Inquiry, 313 Ga.App. 683,
citing *Bd of Regents v. Doe*. However, in *Data Inquiry*, unlike in the instant
case, there were no signed agreements.

Likewise, this Court in *Ruff*, citing *Bd. of Regents v. Doe* and *Baker v. Jellibears*, simply found that “none of [the] documents was signed by a representative of the Board of Regents or a representative of the University.... As such, there was no evidence which demonstrated the intent of the Board of Regents to enter into a binding contract with Ruff.”
Ruff, 315 Ga.App. 452, at 457.

In *Kennedy v. Georgia Dept. of Human Resources Child Support Enforcement*, 286 Ga.App. 222, 224 (2007), which Appellant cites, the agreement was not signed by the Department, and the Court found that the terms of the document were too uncertain to form a binding legal contract, and, so, inapposite to the present case. However, here, in response to the job offer communicated to Appellee by Dr. Alvarez, Appellee accepted through

multiple signed, written contemporaneous documents – not least, the loyalty oath (R 799), in which Appellee acknowledged being an employee of the University; the intellectual property agreement (R 800), by which Appellee gave Appellant an interest in any intellectual property he might develop as consideration for his employment, and which was signed by both Appellee and the office manger of the Department; and a certificate of eligibility for exchange visitor (J-1) status (R 1101), jointly signed by Appellee and the Alternate Responsible Officer, Exchange Visitor Program, in the Office of International Education, which had responsibility for procurement of a visa for Appellee. This certificate named Appellee as a Research Scholar in Virology at the salary of \$38,712 until June 30, 2006. R 1101. The trial court highlighted these documents in its Order denying summary judgment. R 1438–1439.

Finally, in 1997, Georgia enacted the *Georgia Electronic Records and Signature Act*, which provides pertinently:

- (a) Records and signatures shall not be denied legal effect or validity solely on the grounds that they are electronic.
- (b) In any legal proceeding, an electronic record or electronic signature shall not be inadmissible as evidence solely on the basis that it is electronic.

- (c) When a rule of law requires a writing, an electronic record satisfies the rule of law.
- (d) When a rule of law requires a signature, an electronic signature satisfies that rule of law.
- (e) When a rule of law requires an original record or signature, an electronic record or electronic signature shall satisfy such rule of law.

O.C.G.A. Sec. 10-12-1, et seq. Hence, every email communication (R 302-437) between Appellee and the representatives and agents of Appellant must be treated as a signed written document bearing on the issue of a written contract. As shown in the preceding Statement of Facts, numerous emails (e.g. R 302; R 307-308) between Appellee and representatives of Appellant provide additional evidence of a written contract, cumulative to the previously discussed multiple signed, written documents that the trial court found as conclusive evidence of a written contract.

II. Venue Is Proper In the State Court of Fulton County.

This is not the first time this Court has considered an appeal of an action filed in the State Court of Fulton County against Appellant Board of Regents under the Georgia Constitutional provision of waiver of sovereign immunity for breach by a State agency of a written contract. In *Bd. of*

Regents v. Doe, 278 Ga.App. 878 (2006), discussed above, a former employee of Georgia Tech, a dean, successfully brought an action against the Board of Regents in the State Court of Fulton County for breach of contract. On appeal, this Court upheld the trial court, finding as a matter of law that there was a valid written employment contract between Georgia Tech and Doe. This Court did not find venue to be improper in the State Court of Fulton County. *Doe*, at 881.

As demonstrated below, venue is proper in the trial court on the basis of O.C.G.A. Sec. 50-21-1:

- (a) The defense of sovereign immunity is waived as to any action ex contractu for the breach of any written contract existing on April 12, 1982, or thereafter entered into by the state, departments and agencies of the state, and state authorities.
- (b) Venue with respect to any such action shall be proper in the Superior Court of Fulton County, Georgia. The provisions of this subsection shall be cumulative and supplemental to any other venue provisions permitted on April 12, 1982, or thereafter permitted by law.

First, Appellant contends that O.C.G.A. Sec. 50-21-1 is like O.C.G.A. Sec. 50-21-28 in expressly conditioning sovereign immunity on a venue

limitation. Appellant maintains that the use of the term “shall” rather than the term “may” in subparagraph (b) of Section 50-21-1 dictates venue in the Superior Court of Fulton County. However, the language and structure of O.C.G.A. Sec. 50-21-28, which pertains to sovereign immunity in tort cases, is significantly different from that of O.C.G.A. Sec. 50-21-1, which concerns sovereign immunity in contract actions. O.C.G.A. Sec. 50-21-28 provides:

All tort actions against the state under this article **shall be brought** in the state or superior court of the county wherein the loss occurred....

(Emphasis added.) This language places venue unambiguously in the state or superior court of the county in which the tort loss occurred. “Shall be brought” is a command, employing a verb form, “brought.” In contrast, O.C.G.A. Sec. 50-21-1(b) merely states that venue with respect to any action against the state for breach of contract “**shall be proper** in the Superior Court of Fulton County, Georgia.” (Emphasis added.) “Shall be proper” is a statement of condition, and not a command. In this context, the adjective “proper” means fitting or appropriate. The phrase “shall be proper” does not dictate venue but rather assures “safe harbor” for a breach of contract action brought against the state. Put differently, O.C.G.A. Sec. 51-21-1(b) assures that an action against the state for breach of contract will always be proper in

the Superior Court of Fulton County but may also be brought in other venues as permitted by law. Had the legislature wished to make venue exclusive in the Superior Court of Fulton County, it easily could have done so by using the same language employed in O.C.G.A. Sec. 50-21-28, stating that such an action “[should] be brought” there. Instead, the General Assembly adopted different language with a different meaning. This interpretation is supported by the second sentence of subparagraph (b):

The provisions of this subsection shall be **cumulative and supplemental** to any other venue provisions permitted on April 12, 1982, or thereafter permitted by law.

O.C.G.A. Sec. 50-21-1(b). (Emphasis added.) As the trial court noted in an Order denying Defendant/Appellant’s motion to dismiss, “the legislature explicitly stated that the venue provisions were cumulative of other venue provisions....”

Second, Appellant argues that *Campbell v. Department of Corrections*, 268 Ga. 408 (1997), supports its contention that special venue statutes control, using the term “shall” rather than the term “may.” However, *Campbell* concerns tort claims and O.C.G.A. Sec. 50-21-28, containing the language “shall be brought,” rather than contract actions and O.C.G.A. Sec.

50-21-1, containing the language “shall be proper,” and is, consequently, inapposite.

Third, the structure of O.C.G.A. Sec. 50-21-1 is noteworthy. It is composed of two coordinate subparagraphs, unlike the venue provisions of the Georgia Tort Claims Act. Subparagraph (a) states plainly and simply, without qualification, that sovereign immunity “is waived as to any action *ex contractu* for the breach of any written contract existing on April 12, 1982, or thereafter entered into by the state, departments and agencies of the state, and state authorities.” Had the General Assembly wished to condition the waiver, it might easily have done so. It did not. Instead, the legislature adopted subparagraph (a) along with subparagraph (b), which makes venue in the Superior Court of Fulton County, “cumulative and supplemental” to other venue provisions.

Finally, *arguendo*, were venue in the State Court of Fulton County improper, the remedy would simply be transfer to the appropriate forum rather than dismissal or immunity, as Appellant has argued. URSC 19.1; *Shannon v. Allen Automatic Transmission*, 172 Ga.App. 88, 322 S.E.2d 99 (1984) (“the proper remedy was not dismissal of the complaint but transfer of the case to the appropriate forum, pursuant ... the Uniform Transfer Rules promulgated by the Supreme Court....”).

III. Performance Recission Was Not Justified, as Appellant Failed Through Its Own Actions and Inaction to Obtain the Required Visa, Which Only It Could Have Obtained For Appellee.

Appellant argues that it was justified in rescinding the employment offer to Appellee because he failed to perform under the terms of the contract by lacking a visa that would permit him to work lawfully in the United States. This argument stands the facts, Georgia contract law, and Federal immigration law on their heads.

In offering employment to Appellee, a non-citizen, UGA's Department of Infectious Diseases undertook to sponsor him for an appropriate non-immigrant employment visa, i.e. either a J-1 or an H-1B visa. 8 CFR Sec. 214.2(h)(4); 8 CFR Sec. 214.2(j). As a postdoctoral research scholar in virology, Appellee was eligible for an H-1B visa, 8 CFR Sec. 214.2(h)(4), and also for J-1 Exchange Visitor status.

<http://j1visa.state.gov/programs/professor-and-researchscholar>. But UGA, not Appellee, was solely in a position to file the paperwork necessary to obtain for Appellee one of the two nonimmigrant visa classifications – H-1B and J-1 – appropriate to him as a postdoctoral research fellow. 8 CFR Sec. 214.2(h)(4); 8 CFR Sec. 214.2(j).

Had UGA's Office of International Education acted more quickly and competently, it might itself have contacted the University of Kansas about

reinstatement and transfer of Appellee's J-1 from KU to UGA, and have advised Appellee on the timely withdrawal of his pending application for change of status to a B visa. R 425. As it was, Appellee was essentially left to fend for himself in the visa arena by a department that had not previously hired an international applicant and was unwilling to pay the necessary visa fees to do so, and by academic immigration advisors who failed to make an early and correct assessment of Appellee's immigration situation and lacked the experience and judgment to resolve it appropriately. R 407-410; 419; 422; 360-367; 760.

In desperation, on August 1, 2005, Appellee himself contacted Lynne Vanahill, who had handled his J-1 visa at the University of Kansas, to see if she could get him reinstated as a J-1 Exchange Visitor with KU and then transfer the J-1 to UGA. R 407. With some considerable effort on the parts of Vanahill and Appellee, and no particular thanks to the Office of International Education at UGA or to Appellee's department, this was done successfully. R 407; 473. UGA claimed Appellee's SEVIS record, and Appellee was in J-1 status by August 10, 2005. R 152; 296; 473; 775; 776; 1101. However, shortly afterward, the COS application Appellee had filed in May, prior to contacting UGA regarding employment, was approved,

notwithstanding his request to withdraw it, with the ultimate result that his J-1 visa was cancelled. R 133; 431; 1013.

UGA's Office of International Education advised Appellee on August 18, 2005 that the only immigration option he had after inactivation of his SEVIS record and cancellation of his J-1 visa status was to apply for an H-1B visa. R 152. At least as early as August 17, 2005, the date on which UGA became aware that Appellee's application for a change of status from J-1 to B-2 classification had been approved by USCIS, UGA could have filed an H-1B petition on Appellee's behalf. R 152. The COS filing receipt, receipt number, and U.S. Citizenship and Immigration Services' online Case Status Report showing approval of the change of status were sufficient proof of approval of the B-2 visa to permit UGA to file an H-1B petition package on Appellee's behalf. R 678-679. Moreover, for an additional \$1000 fee, UGA could have used USCIS's Premium Processing Service (Form I-907) to obtain a guaranteed 15-calendar day processing of the H-1B petition on Appellee's behalf. DHS, Office of Business Liaison, Employer Information Bulletin 21, March 15, 2005. In 2005, USCIS routinely processed H-1B filings that were filed with Premium Processing in fewer than 15 calendar days, often in seven days or fewer. Consequently, if UGA had filed an H-1B petition on Appellee's behalf, using Premium Processing, on August 17,

2005, USCIS would have guaranteed processing within 15 days – or by no later than September 1, 2005, and very likely within seven or fewer days – or by August 24, 2005 or earlier. Ibid. But UGA never filed an H-1B petition on Appellee’s behalf, even though, by hiring him, it had committed to sponsoring Appellee for the appropriate visa. R 152. Appellee was dependent on UGA to file the H-1B petition on his behalf, as an H-1B beneficiary could not file the petition for himself. C.F.R. Sec. 214.2(h)(1)(i) and (2)(A).

In the H-1B application process, the employer must first obtain from the Department of Labor certification that it has filed a Labor Condition Application (LCA), C.F.R. Sec. 214.2(h)(i)(B)(1), and then file a Form I-129 petition for nonimmigrant worker on behalf of the H-1B beneficiary. C.F.R. Sec. 214.2(h)(1)(i) and (2)(A). Only the employer could do this. Ibid.

Moreover, Federal regulations prohibit payment by an H-1B worker of any part of the H-1B statutory training and processing fee, and statutory fraud prevention and detection fee. INA Sec. 212(n)(2)(C)(vi)(II); INA Sec. 214(c)(12)(A); 20 C.F.R. Sec. 655.731(c)(9). Federal regulations also prohibit an employer from requiring an H-1B worker to pay any part of the employer’s business expenses, including premium processing, if it would depress the employee’s wages below the required wage. 20 C.F.R. Sec.

655.731(c)(12); C.F.R. Sec. 655.731(c)(9)(ii) and (iii)(C). Where, as here, an employer has an immediate need or desire for a foreign national to begin work, payment for premium processing by an H-1B worker is an unauthorized deduction from pay. U.S. Department of Labor, Wage and Hour Division, Fact Sheet #62H. An H-1B employer may be liable for civil money penalties for payment of the premium processing fee by an H-1B employee. 20 C.F.R. Secs. 655.810(b)(1)(v) & (e)(1); *see* U.S. Department of Labor, *Morales Toia v. Gardner Family Care Corp.*, Case No. 2007-LCA-00006, April 25, 2008. Hence, responsibility for paying the \$1000 expedite fee to obtain timely processing of an H-1B petition on Appellee's behalf rested squarely upon Appellant, not Appellee. Yet, UGA department chair Dr. Fred Quinn made it clear that he would not commit department money to Appellee's visa process, and that it was up to Appellee. R 760.

Finally, UGA acted arbitrarily and cynically in changing the start date without either taking the steps necessary to procure J-1 or H-1B status for Appellee by the new date or setting a start date by which time an appropriate visa classification could be obtained for Appellee and then actually filing on his behalf. Specifically, Dr. Ralph Tripp, head of the UGA lab that hired Appellee, set an arbitrary "deadline" of September 16, 2005 for Appellee to be in a nonimmigrant visa classification with employment authorization but

UGA did not pay the fees or file the paperwork, as only the employer could, to obtain the required change of status to H-1B classification by that date. R 760; R 905.

In its Order, the trial court noted:

[A]s it appears that only the University could submit certain visa applications on Appellee's behalf and the University was therefore required in good faith to provide assistance, the Court finds a question of fact as to this condition of performance. See *Board of Regents of the University System of Georgia v. Doe*, 278 Ga.App. 878 (2006).

Order, 5-6. R 1439-40. The trial court also observed in a footnote:

Appellee contends that the University mishandled aspects of his visa application, including the failure to pay expedited processing. It is for the trier of facts to determine the relative responsibility of the parties in this matter.

Order, at 6 (footnote). R 1440.

In sum, Appellant rendered Appellee's performance of the contract impossible by failing to take effective action, within its sole prerogative, to procure for him a visa that would give him employment authorization.

CONCLUSION

Accordingly, Appellee respectfully requests that this Court deny Appellant's appeal.

THIS 5th day of August 2014.



A. Blair Dorminey
State Bar No. 225932
Attorney for Appellee

DORMINEY & COX, LLC
P.O. Box 8082
Athens, GA 30603
(706) 254-7787

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing BRIEF OF APPELLEE, prior to filing the same, by depositing a copy there of, postage prepaid, in the U.S. Mail, properly addressed, upon:

Elizabeth Harris
Assistant Attorney General
40 Capitol Square SW
Atlanta, GA 30334

This 6th day of August 2014.


A. Blair Dorminey

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

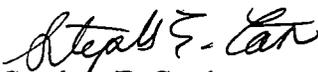
August 13, 2014

Mr. Johnny Ralph Jackson Chambers
GDC819597 A1-4-T
Georgia State Prison
2164 Georgia Highway 147
Reidsville, Georgia 30499

Dear Mr. Chambers:

In response to your letter received in this office, we do not have a case styled in your name pending in this Court.

Sincerely,


Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

Johnny Ralph Jackson Chambers
GDC# 819597 A14-Top
Ga. State Prison
2164 Ga. Hwy. 147
Reidsville, Ga. 30499

Georgia Court of Appeals
334 State Judicial Bldg.
10 Mitchell Street
Atlanta, Ga. 30334

08/06/14

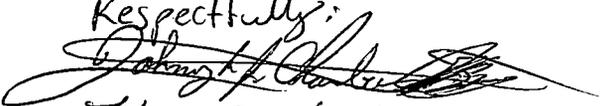
RE: Concerns of Case 06-CR-281

Dear: Sir/Ma'am,

I went/had a hearing for Motion for New Trial on April 1st of 2014 in which Chief Superior Court Judge Christopher C. Edwards of Spalding County denied, My Attorney Ms. Veronica Brinson at that time filed a Notice of Appeal and my Attorney Ms. Deborah Leslie which now represents me/my case advised me that the Spalding County Superior Court as of June 27th of 2014 was preparing my case to be forwarded to the Court of Appeals.

Have you received case 06-CR-281 for an Appeal in your Court(s) from Spalding County Superior Court and if not then will you please let/advise me of when you do get it?

I look forward to hearing from you soon.

Respectfully:

Johnny R. J. Chambers

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 18, 2014

To: Ms. Kelley Gamblin, Post Office Box 609, Franklin, Indiana 46131

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____
divesting this Court of jurisdiction. The remittitur issued on _____
The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

For Additional information, please go to the Court's website at: www.gaappeals.us

To whom it may concern,

8-1-14

I would like to appeal that was heard and ordered on in Appling County in Waynesboro, G.A.

RECEIVED IN OFFICE
2014 AUG 15 PM 02:33
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

First I find it hard to believe that it was ever heard in the proper jurisdiction. I did in fact motion the court with a "Special appearance" and it was denied on the grounds that even though I did ~~not~~ live in Appling County, I was however served there

Second, my divorce never got turned over to the conciliation court. I don't feel as my wish to NOT be divorced was ever heard. Myself and my husband on many occasions attended court "together" and every single time we appeared "together" in court my husband attorney continued the hearing. Also myself & my husband met with his attorney and told him we did NOT want a divorce. He obviously did not withdraw.

Third, I was NEVER notified of the April 22, 2014 final hearing that was set. Therefor I did not attend and I was not given the opportunity to defend my marriage, or to ask for a continuance.

I am very hopeful your court can help me for this case from the very beginning was unjust and NOT heard in the proper jurisdiction.

I do not believe in Divorce. My husband and myself were trying to work things out. We were ordered to stay away from each other, and that was not fair to either of us. Therefore I do believe that from the start the court gave no hope or help for reconciliation of our love and our marriage to fer one another.

Please help me.

Thank you,
Kelley Gambin-Dixon

Kelley Gambin
PO Box 609
Franklin, IN
46131

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 18, 2014

To: Mr. Varocus Antonio Grant, GDC1263661 H-2, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is:
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Varocus Antonio Grant
GDC # 1263661
Case # 12R-110

Affidavit of Truth

I, Varocus A. Grant, being of sound mind and body, not being under the age of 18. Do hereby attest that the foregoing is true, correct and absolute to the best of my knowledge.

RE: Motion For New Trial

For the record, on the record and let the record show. I Varocus A. Grant, address this court In Propria Persona, Sui Juris.

Challenging the courts failure to address said motion in County Superior Court. Also failure to grant a New Trial Hearing, in

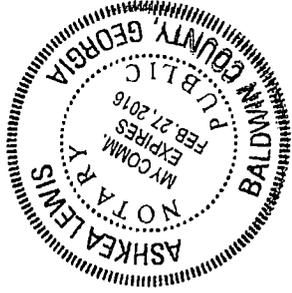
RECEIVED IN OFFICE
24th AUG 15 PM 4:40
CLERK/CLERK ADMINISTRATOR
COURT OF APPEALS OF GA

1. I was sentenced on Nov-20-2012

2. Trial Counselor filed a motion for new trial hearing on Dec-3-2012, within 30 days after I was sentenced.

3. Since the above date of Dec-3-2012, I have not received a New Trial Hearing. This will and is a violation of my due process, also my 4th, 9th and 14th Amendment.

4. Therefore I am requesting for Motion For New Trial Hearing date to be mailed to me, at Hancock State Prison, within 10 days of received Affidavit.



Signed before me this 11th
day of August 2014,
Ashkea Lewis, Notary Public

In Propra Persona, Suivuris
X Verocus Grant
Dated Aug. 11 - 2014

Joncock State Prison
P.O. Box 339
Sparta, GA, 3087

Respectfully Submitted this 11 day of August 2014
Under the penalty of perjury I declare that the above and
before statements are true, correct and absolute to the
best of my knowledge.

Certificate Of Service

I hereby certify that I have a true and correct
copy of the foregoing motion of, Affidavit

Affidavit of Truth Re: Motion for New Trial
Hearing.

Upon the party(ies) listed below by placing same in
United States mail with sufficient postage affixed addressed to:

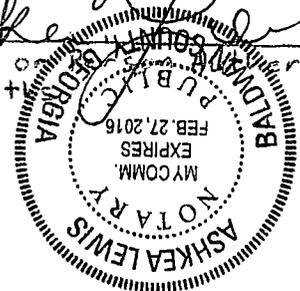
Clerk Of Court
Court Of Appeals of Georgia
Suite 501
47 Trinity Avenue
Atlanta Georgia 30334

Jean H Rogers
Clerk of Superior &
Juvenile courts
P.O. Box 747
Cordele, Georgia 31015

District Attorney
Superior & Juvenile Courts
P.O. Box 747
Cordele, GA, 31015

Sworn to and subscribed before me this

11 day of August 2014
Ashkea Lewis
Notary Public on Georgia
Administer Oath



11 Day of August 2014
x Verocus Grant

CC.

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

Date: August 18, 2014

To: Mr. Dwight Futch, GDC1000932451, Jenkins Correctional Center, 3404 Kent Farm Road, Millen, Georgia 30442

Docket Number: A14A2195 **Style:** Dwight Futch v. Ralph Kemp

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
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In the Court of Appeals
STATE of Georgia

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Dwight Futch
1000932451
VS

Ralph Kemp
BRIAN OWENS

Appeal Case # A14A2195

Motion for Extension of Direct Appeal

Come now Dwight Futch Appellant's in the
above style action and moves this Court
to allow appellant to file and extension
shows the following.

(1)

Appellant wishes to request this court to grant
him A extension based on the rule of court of Appeals
Appellant is requesting the honorable court to
grant 90 Days of Extension in order to retain
effective Counsel to file Appellant brief. Appellant
is Pro SE and believe this is the proper vehicle
to pursue.

(2)

Appellant pray that this motion for extension
of Direct Appeal be granted and further relief
this HONORABLE Court deems just and appropriate

Respectfully submitted this 14 Day of 2014

Dwight Futch

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 18, 2014

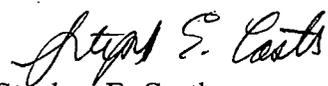
Mr. Nicholas A. Evans
801 Glen Way, N.E.
Atlanta, Georgia 30319

RE: A14A1267. Nicholas Evans v. The State

Dear Mr. Evans:

The filing fee in the above referenced matter was paid on July 30, 2014 by Michael B. King, Esq. I am returning to you the United States Postal Money Order #21960463364 payable to the order of the Court of Appeals of Georgia in the amount of \$80.00.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosure



2196046364

Serial Number

2014-08-15 300532 \$80.00

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COST DUE LETTER

REF: Case No. A14A1267

NICHOLAS EVANS v. THE STATE

DOCKET DATE: March 11, 2014

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PLEASE REMIT THE ABOVE AMOUNT ON OR BEFORE: August 22, 2014

If you are an attorney and the cost is not paid by the date above your name shall be removed from the roll of attorneys who are permitted to practice in the Court of Appeals of Georgia and that fact will be communicated to the State Bar of Georgia.

*The filing fee has
been paid by
Michael B. King
7.30.14*

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 18, 2014

To: Mr. Angelo Bernard Banks, GDC402710 D-7-X, Wheeler Correctional Facility, Post Office
Box 466, Alamo, Georgia 30411

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

04th AUGUST 2014

C/O: OFFICE OF THE CLERK
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COURT OF APPEALS OF GA

RE: ANGELO BERNARD BANKS V. DEPT. OF CORRECTIONS, ET AL.
CIVIL ACTION NO. 2013 CV 231225, SUPERIOR COURT OF FULTON COUNTY;
STATE COURT GRANTING MOTION TO REOPEN TIME TO FILE APPEAL;

DEAR CLERK,

ENCLOSED, PLEASE FIND THE ORDER OF THE LOWER COURT GRANTING MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL. I HAVE RECENTLY SERVED THE NOTICE OF APPEAL, AND I HAVE INCLUDED MY BRIEF OF APPELLANT IN A TIMELY MANNER, FOR FEAR THAT PRISON OFFICIALS ONGOING RETALIATION AND HINDERANCE OF ACCESS TO THIS COURT, WON'T FURTHER DELAY A DECISION.

BE ADVISED THAT I ATTACHED A NOTICE OF APPEAL TO THE MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL, AND SINCE THAT TIME I HAVE NOT RECEIVED A DOCKET NOTICE FROM THIS OFFICE AFTER SUCH ORDER WAS ISSUED.

PLEASE ACCEPT MY BRIEF FOR FILING, THE TRIAL COURT RECORD WILL REVEAL MY RECEIPT OF THE ORDER ON JULY 29, 2014.

RESPECTFULLY SINCERE,
SI Angelo B. Banks

Tom Campbell
TOM CAMPBELL, JUDGE
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

KS

Prison

, GA 31018

Brown Dolby
Office of the Attorney General
40 Capitol Square, SW
Atlanta, GA 30334-1300

COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

CA. NO: _____ SLIP. Ct. No. 2013 CV 231225

ANGELO BERNARD BANKS, APPELLANT / PLAINTIFF

VERSUS

BRIAN OWENS, COMMISSIONER, APPELLEES, / DEFENDANTS.
ET AL.,

BRIEF OF APPELLANT

THE JURISDICTION OF THE COURT OF APPEALS, RATHER THAN THE
SUPREME COURT, IS CONFERRED BY 35-6-35 DCGA.

PLEASE SERVE:

GDC #402710, D-7-AB
WHEELER CORRECTIONAL FACILITY
195 NORTH BROAD STREET,
P.O. BOX 466
ALAMO, GEORGIA 30411

ANGELO BERNARD BANKS,

PRO SE

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PART ONE
STATEMENT OF JURISDICTION

THE JURISDICTION OF THE COURT OF APPEALS OF GEORGIA IS CONFERRED BY §5-6-35, O.C.G.A.

STATEMENT OF THE PRECEDINGS

THIS IS A PETITION FOR DECLARATORY JUDGMENT UNDER §50-13-10, O.C.G.A. BROUGHT BY A STATE PRISON OFFENDER, WHO ALLEGES THAT, IN RELEVANT PART, THE RESPONDENTS' POLICIES AND PRACTICES VIOLATE THE CONSTITUTION AND VARIOUS GEORGIA STATUTORY LAWS, AND THAT THE RESPONDENTS COMMIT SUCH VIOLATIONS ^{VIOLATIONS} IN ADDITION TO THE SENTENCE IMPOSED.

THE SUPERIOR COURT FOR FULTON COUNTY GRANTED RESPONDENTS' MOTION TO DISMISS ON THE GROUND THAT THE PLAINTIFF IS NOT PERMITTED TO HAVE ACCESS TO HIS CONFIDENTIAL PAROLE FILES. HE CANNOT CLAIM THAT THE INFORMATION IN HIS FILE IS INCOMPLETE, AND HE IS NOT ENTITLED TO PAROLE, THEREFORE, PLAINTIFF HAS FAILED TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

ON AUGUST 30, 2013, THE PETITIONER INITIATED THE FILING OF HIS APPLICATION FOR DISCRETIONARY APPEAL IN THE SUPREME COURT OF GEORGIA. HOWEVER, ON SEPTEMBER 19, 2013, THAT COURT TRANSFERRED THE APPLICATION TO THIS COURT OF APPEALS FOR FULL CONSIDERATION, AND ON NOVEMBER 12, 2013, THIS COURT, SUPRA, GRANTED PETITIONER'S APPLICATION AND LEAVE TO FILE AN APPEAL.

ON NOVEMBER 18, 2013, PETITIONER GAIN RECEIPT OF THIS COURT OF APPEALS DECISION AND ORDER, AND THE EVENING OF NOVEMBER 18, 2013, PETITIONER DELIVERED HIS NOTICE OF APPEAL, THIS COURT'S ORDER, HIS ENVELOPE STAMPED RECEIVED BY PRISON, AND CERTIFICATE OF SERVICE, WITH HIS INDIGENT POSTAGE REQUEST FORM TO POST TO HIS COURT OF APPEALS AND TO THE SUPERIOR COURT FOR FULTON COUNTY, TO THE MAILROOM OFFICER, AT INVESTIGATION STATE PRISON.

ON DECEMBER 30, 2013, PETITIONER DELIVERED HIS "AMENDMENT TO THE NOTICE OF APPEAL" WITH HIS INDIGENT POSTAGE REQUEST FORM, TO THE PRISON MAILROOM OFFICER FOR POSTING.

ON JULY 14, 2014, JUDGE CAMPBELL DID ENTER ORDER ON APPELLANT'S MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL. APPELLANT GAIN RECEIPT OF SUCH ORDER GRANTING TIME, ON JULY 29, 2014.

STATEMENT OF THE FACTS

THE PETITIONER ALLEGED IN HIS PETITION FOR DECLARATORY JUDGEMENT UNDER PENALTY OF PERJURY, THAT, IN PERTINENT PART, ON SEPTEMBER 14, 1990, HE WAS SENTENCED TO LIFE IMPRISONMENT. AND AT THAT TIME, THE MEMBERS, THEMSELVES, OF THE STATE BOARD OF PARDON AND PAROLES, PURSUANT TO GEORGIA CONST. 1983, ART. IV, SEC. 11, PARA. IV, AND § 42-9-43(b), WAS IMPOSED WITH THE OFFICIAL DUTY, AFTER HE MET THE SEVEN YEAR ELIGIBILITY REQUIREMENT, EFFECTIVE DECEMBER, 1995, AND ON EVERY RESCHEDULED DATE THEREAFTER, TO CONSIDER HIM FOR PAROLE IN ACCORDANCE WITH THE POLICY AND PROCEDURES ENACTED UNDER TITLE 42 OF O.C.G.A.

IN 1995; 2003; AND 2011, NO MEMBER OR EMPLOYEE OF THE BOARD CONDUCTED AN INTERVIEW OR INVESTIGATION RELATING TO HIS ELIGIBILITY CONSIDERATIONS, IN ACCORDANCE WITH § 42-9-41 AND § 42-9-43, O.C.G.A.

INSTEAD, HE WAS INTERVIEWED BY DEMENTED, PRISON COUNSELORS' AS, DE FACTO TRUSTEE, WHO INFORMED PETITIONER THAT THEY WERE DIRECTED BY THE PAROLE BOARD TO CONDUCT PAROLE SUMMARIES REPORTS ON HIM AND, TO FAX THE INFORMATION BACK TO THE BOARD. PETITIONER WAS THEN NOTIFIED OF EACH DECISION FROM THURMAN L. HENDERSON, DIRECTOR OF CLEMENCY BOARD, ACTING AS EX OFFICIO MEMBER, VIA THE HANDS OF PRISON COUNSELORS.

PRISON LOCAL OPERATING PRACTICE (LOP) PERMITS PRISON MAILROOM OFFICERS TO ENROUTE ALL LETTERS FROM THE PAROLE BOARD IN POSTAGE PAID ENVELOPES ADDRESSED TO PETITIONER, TO MS GLENN FLEMING, WHO OPENS AND PHOTOCOPY HIS CONTENTS OUTSIDE OF HIS PRESENCE AND THEN APPEARS BEFORE HIM AND OPTIONS HIM TO SIGN IT OR WAIVER HIS RECEIPT. PER, GLENN FLEMING, BECAUSE PETITIONER IS VERY LETHYGIOS, AS STATED IN THE RESPONDENTS' MOTION TO DISMISS. (V. ARGUMENT AND CITATION OF AUTHORITY.)

ON JUNE 07, 2011, GLENN FLEMING, INAPPROPRIATELY ADVISED AND MISLEAD PETITIONER UNDER THE PRETENSE THAT SOMEONE AT THE PAROLE BOARD DIRECTED HER TO CONDUCT A PAROLE INVESTIGATION AND SUMMARY REPORT ON HIM AND TO FAX THE INFORMATION BACK TO THEM. HOWEVER, BY DECEMBER 2011, HIS SCHEDULED ELIGIBILITY DATE, NO MEMBER OR EMPLOYEE OF THE PAROLE BOARD OR THE DEPT. OF CORRECTIONS, CONSULTED WITH PETITIONER OR CONDUCTED A PAROLE CONSIDERATION.

PURSUANT TO THE 1999 AMENDMENT OF § 42-9-1, EFFECTIVE JULY 01, 1999, DELETED THE SUBSECTION (A) DESIGNATION AND THE DELETED FORMER SUBSECTIONS (b) AND (c) WHICH READ:

(b) THE BOARD IS ASSIGNED TO THE DEPT. OF CORRECTIONS FOR ADMINISTRATIVE PURPOSES ONLY, AS PRESCRIBED IN CODE SECTION 50-4-3, OCGA.

(c) THE MEMBERS OF BOARD SHALL SERVE EX OFFICIO IN AN ADVISORY CAPACITY TO THE BOARD OF CORRECTIONS.

IN MARCH, 2012, PETITIONER PROMPTED AN APPOINTMENT WITH COUNSELOR KIMBERLY SIMPSON, WHO ACCESSED THE PAROLE BOARD BY EMAIL TO INQUIRE ABOUT HIS ELIGIBILITY CONSIDERATION SCHEDULED DECEMBER 2011. WITHIN A WEEK LATER HE WAS ADVISED BY COUNSELOR KIMBERLY SIMPSON, THAT THE BOARD OFFICIALS SAID THEY INTEND TO VISIT WITH HIM IN THE COMING MONTHS.

BY DECEMBER, 2012, PETITIONER HAD NOT RECEIVED NOTIFICATION OF THE BOARD'S DECISION. AT THIS POINT, HE PROMPTED A VISIT WITH COUNSELOR KIMBERLY SIMPSON, WHO ACCESSED THE PAROLE BOARD AND READ TO HIM "IT SHOWS YOUR NEXT CONSIDERATION DATE IS JULY 2014. HOWEVER HE HAS NOT RECEIVED NOTIFICATION FROM THE BOARD MEMBERS OF THE REASONS FOR PAROLE DENIAL TO DATE, INFRA.

WHEN JULY 1st 2014, CAME THE PLAINTIFF WAS ASSIGNED TO WHEELER CORRECTIONAL FACILITY. AND BY THAT TIME, NO FIELD OFFICER NOR INVESTIGATOR OR EXAMINOR OF THE PAROLE BOARD HAD COMMENCED OR COMPLETED EITHER A SOCIAL OR LEGAL INVESTIGATIONS, AS MANDATED BY PRACTICE BEFORE A PAROLE DECISION CAN BE MADE. APPELLANT IS STILL UNAWARE OF THE DECEMBER 2011 REASONS FOR DENIAL OF HIS PAROLE.

STATEMENTS OF ISSUES OF LAW

1.

WHETHER THE SUPERIOR COURT IN GRANTING RESPONDENTS MOTION TO DISMISS, WITHOUT GIVING CONSIDERATION TO PETITIONERS REQUEST FOR A HEARING AND OR OPPORTUNITY TO COMPLETE DISCOVERY, ABROGATED HIS DUE PROCESS OF LAWS RIGHTS. APPELLANT ANSWERS YES.

2.

WHETHER THE SUPERIOR COURT IN GRANTING RESPONDENTS MOTION TO DISMISS, IMPROPERLY DECIDED DEPLETED FACTUAL ISSUES AND OR THE PETITIONERS' FACTUAL ALLEGATIONS RAISE A MATERIAL ISSUE UNDER THE STATE CONSTITUTION AND STATUTORY PROVISION. APPELLANT ANSWERS YES.

3.

WHETHER THE SUPERIOR COURT IN GRANTING RESPONDENTS MOTION TO DISMISS, USED THE WRONG LEGAL STANDARDS OF LAWS OR HIS DECISION WAS SO EXTREME AS TO CONSTITUTE AN ABUSE OF DISCRETION. APPELLANT ANSWERS YES.

4.

WHETHER THE SUPERIOR COURT IN GRANTING RESPONDENTS MOTION TO DISMISS, ABUSED HIS DISCRETION IN DENYING PETITIONER ACCESS TO THE COURTS. APPELLANT ANSWERS YES.

ENUMERATIONS OF ERRORS

1. THE SUPERIOR COURT ERRONEOUSLY ERRED IN DISMISSING THE PETITION, WITHOUT CONSIDERING THE REQUEST FOR ORAL HEARING (RULE 15B) OR AN OPPORTUNITY TO COMPLETE DISCOVERY. (POINT ONE)

2. THE SUPERIOR COURT ERRONEOUSLY ERRED IN DISMISSING THE PETITION, WHERE IT IMPROPERLY DECIDED DISPUTED FACTUAL ISSUES AND OR PETITIONERS FACTUAL ALLEGATIONS RAISED A MATERIAL ISSUE UNDER THE CONSTITUTION. (POINT TWO)

3. THE SUPERIOR COURT ERRONEOUSLY ERRED IN DISMISSING THE PETITION, WHERE IT USED THE WRONG LEGAL STANDARD OF LAWS AND OR HIS DECISION IS SO EXTREME AS TO CONSTITUTE AN ABUSE OF DISCRETION. (POINT THREE)

4. THE SUPERIOR COURT ERRONEOUSLY ERRED IN DISMISSING THE PETITION, WHERE IT DEIVED PETITIONER ACCESS TO THE COURTS. (POINT FOUR)

ARGUMENT AND CITATIONS OF AUTHORITIES

THE SUPERIOR COURT SHOULD NOT HAVE GRANTED RESPONDENTS' MOTION TO DISMISS, BECAUSE IN DECIDING A MOTION TO DISMISS, THE COURT MUST ASSUME THAT ALL OF THE ALLEGED FACTS IN THE COMPLAINT ARE TRUE, AND MUST CONSIDER THE FACTUAL ALLEGATIONS IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF. SEE SCHEIDT V. CHILES, 711 U.S. 232, 236, 94 S. CT 1883 (1974). THE COURT CONSIDERS ONLY THE ALLEGATIONS IN THE COMPLAINT, AND IT SHOULD DISMISS THE COMPLAINT ONLY IF IT APPEARS BEYOND DOUBT THAT THE PLAINTIFF CAN PROVE NO SET OF FACTS IN SUPPORT OF HIS CLAIMS WHICH WOULD ENTITLE HIM TO RELIEF. SEE CONLEY V. GIBSON, 355 U.S. 41, 45-46, 78 S. CT. 99 (1957).

POINT ONE

THE SUPERIOR COURT ERRONEOUSLY ERRED IN DISMISSING THE PETITION WITHOUT HONORING THE FORMAL REQUEST FOR ORAL HEARING OR AN OPPORTUNITY TO COMPLETE DISCOVERY (ELIMINATION OF ERROR) ONE

THE CASE RECORD REFLECTS THAT ON ABOUT JULY/AUGUST, 2013, THE PETITIONER INITIATED HIS NOTICE OF DISCOVERY AND DISCOVERY REQUESTS, AND HIS MOTION IN OPPOSITION AND MOTION TO STRIKE INSUFFICIENT DEFENSE AND HABERS CORPUS AD TESTIFICANDUM, WITH THE CLERK OF COURT, AS WELL AS OPPOSING COUNSEL. SUCH MOTIONS WERE PENDING BEFORE THE COURT WHEN JUDGMENT WAS ENTERED ON AUGUST 19, 2013. THEY WERE RECEIVED ON THE 16TH OF AUGUST, 2013, BUT NOT FILED UNTIL THE 26TH OF AUGUST, 2013. SEE PHOTOCOPY OF LETTER AFFACHED TO PETITIONERS INTERROGATORIES AND REDUCTION OF DOCUMENTS DATED AUGUST 21, 2013, AND PENDING THE RESPONDENTS RESPONSE WHEN THE COURT RULED ON THE RESPONDENTS' MOTION TO DISMISS. PETITIONERS' RULE NISI AND TRIAL BY JURY REQUESTS WERE FILED,

PURSUANT TO U.S.C.R. RULE 6.3 HEARINGS, ORAL ARGUMENT IS NOT AT THE COURT'S DISCRETION, WHETHER ORAL ARGUMENT IS HEARD IS WITHIN THE POWER OF THE JUDGES AND NOT LEFT TO THE DISCRETION OF THE COURT. SEE DIXON V. MCCLAIN, 204 GA. APP. 531 (1992), A FINAL COURT ERRORS IN FAILING TO HOLD A HEARING PRIOR TO THE DENIAL OF THE COMPLAINT. SEE GREEN V. MCCLARK, 273 GA. 812 (2001), PETITIONERS' ENTITLEMENT TO THE PAROLE BOARD INFORMATION IS CONFERRED BY 542-9-19, O.C.G.A. KNOWING AS THE DISCLOSURE PROVISION "A COURT SHOULD NOT GRANT JUDGMENT AGAINST A PARTY WHO HAS NOT HAD AN OPPORTUNITY TO PURSUE DISCOVERY OR THESE DISCOVERY REQUESTS HAVE NOT BEEN ANSWERED. AD5B-TV V. LEE, 842 F.2D 1216, 1219 (11th Cir. 1988). THE FINAL COURT'S REFUSANCE DETERMINATION OF THE PARTIES OPPOSING CLAIMS TO THE STATUTORY PRIVILEGES OF 5542-9-19 AND 42-9-53, IS HARSHLY IN FAVOR OF THE RESPONDENTS TO DENY PETITIONER ACCESS TO THE COURTS.

POINT TWO

A. THE SUPERIOR COURT IMPROPERLY RESOLVED FACTUAL DISPUTES
IN GRANTING RESPONDENTS' MOTION TO DISMISS, ~~FOR~~
ENUMERATION OF ERROR TWO

THE PLAINTIFF'S SWORN COMPLAINT AND OR §42-9-19, OCGA, SQUARELY CONTRADICTS THE RESPONDENTS' CONJECTURE CONCERNING WHETHER PETITIONER CAN CLAIM INFORMATION USED FOR ELIGIBILITY CONSIDERATIONS ARE INCOMPLETE OR NOT UP TO DATE, OR WHETHER HE COULD POSSIBLY INTRODUCE EVIDENCE WITHIN THE FRAMEWORK OF THE COMPLAINT SUFFICIENT TO WARRANT A GRANT OF THE RELIEF SOUGHT, IF IT IS INCOMPLETE, AND WHY PROOF IS NOT ACCESSIBLE. THE SUPERIOR COURT ORDER STATES THAT PLAINTIFF IS NOT PERMITTED TO ACCESS TO HIS CONFIDENTIAL PAROLE FILES, AND PLAINTIFF CANNOT CLAIM INFORMATION IN HIS FILE IS INCOMPLETE. AMOUNTS TO A JUDGEMENT ABOUT THE CREDIBILITY OF THE PLAINTIFF'S FACTUAL ALLEGATIONS. THE SUPERIOR COURT MAY NOT MAKE CREDIBILITY DETERMINATIONS OR OTHERWISE RESOLVE DISPUTED FACTUAL ALLEGATIONS OR ISSUES. ON A MOTION TO DISMISS, SEE CHAFFER V. EDGE, 118 GA. APP. 750 (1968).

B. THE DISPUTED FACTUAL ISSUES ARE MATERIAL UNDER THE STATE CONSTITUTION AND STATUTORY PROVISION.

A MATERIAL FACT IS ONE THAT MIGHT AFFECT THE OUTCOME OF THE SUIT UNDER THE GOVERNING LAWS. ANDERSON V. LIBERTY LOBBY, INC., 477 U.S. 248 (1986). THE DISPUTED FACTS ALLEGED BY THE PLAINTIFF ARE MATERIAL. HIS SWORN COMPLAINT, MOTION IN OPPOSITION AND AMENDED MOTION TO STRIKE RESPONDENTS INSUFFICIENT DEFENSE, PORTRAYS A LEGAL CHALLENGE TO THE UNSCRUPULOUS PRISON PRACTICES THAT ABRIDGE PAROLE OPPORTUNITIES VIA INTERFERENCE WITH OR IMPAIRMENT OF HIS LEGAL RIGHTS. E. G. STATUTORY PROHIBITION AGAINST EX OFFICIO MAJOR DEFACTO OFFICER AND CONSTITUTIONAL AND STATUTORY ENTITLEMENTS TO TIMELY PAROLE CONSIDERATIONS, AND WRITTEN NOTICE OF THE REASONS FOR DENIAL, PURSUANT TO GA. CONST. 1983, ART. IV, SEC. 11, PARA. 11.

WHETHER THE PETITIONER HAS PRIVY TO THE "DISCLOSURE PROVISION" OF §42-9-19, OCGA, ON WHICH TO VALIDATE HIS CLAIMS THAT PRISON OFFICIALS ARE ABUSING HIS ACCESS TO PAROLE OPPORTUNITIES AND THAT HIS PAROLE REVIEWS ARE CONDUCTED IN A FLAGRANT, UNWARRANTED, AND UNAUTHORIZED MANNER, THAT ABRIDGES OR ABOLISHES HIS CONSTITUTIONAL ENTITLEMENTS AND STATUTORY PROHIBITIONS, DEPENDS ON WHETHER THE FRAMEWORK OF THE COMPLAINT IS DISCLOSURABLE INFORMATION ACCESSIBLE TO THE GENERAL ASSEMBLY, AND THE TRIAL COURT IMPROPER DETERMINATION OF DISPUTED ISSUES OR LACK OF RELEVANCY APPLICATION

- AMOUNTS TO AN ABUSE OF DISCRETION.

PART THREE

THE SUPERIOR COURT SHOULD NOT HAVE GRANTED RESPONDENTS MOTION TO DISMISS. UPON ITS OWN ERRONEOUS FAILURE TO EXERCISE DISCRETION (MAY BE ENUMERATION OF ERRORS).

THE STATUTORY PRIVILEGE OF SECRETLY AFFORDED RESPONDENTS DOES NOT COVER EVERYTHING THAT OFFICIALS MAY WANT TO KEEP SECRET; IT IS ORIGINATED TO PROTECT DELIBERATIVE AND DECISIONMAKING PROCESSES OF PAROLE BOARD OFFICIALS AND INVESTIGATIVE REPORTS OF AN ADMINISTRATIVE AGENCY TO THE EXTENT THAT THEY REFLECT ADVISORY RATHER THAN FACTUAL MATERIAL. MORRIS V. STATE, 246 GR.510 (1980).

A. THE SUPERIOR COURT ABUSED HIS DISCRETION IN GRANTING RESPONDENTS MOTION TO DISMISS.

EVEN IF PAROLE BOARD OFFICIALS CAN KEEP THEIR DECISIONMAKING POSSESSIONS SECRET

THEY MUST DISCLOSE PURELY FACTUAL MATTER RELATING TO THEIR DECISION. SEE §42-9-19 O.C.G.A. HOWEVER, A LITIGANT CAN OBTAIN "DELIBERATIVE OR ADVISORY" MATERIALS WHEN THE LITIGANT'S

NEED FOR THE MATERIAL OUTWEIGHS THE POLICIES FAVORING SECRECY. SEE ROBE V. STATE, 256 GA. 195 (1984). (ON REQUEST A TRIAL JUDGE SHOULD REVIEW PAROLE FILES) ALSO SEE ENVIRONMENTAL PROTECTION AGENCY V. MINK, 410 U.S. 72, 87-89, 93 S. CT. 827 (1977) (PRISONERS ENTITLED TO

DISCOVER FACTUAL PORTIONS OF INCIDENT REPORTS).

THE PAROLE BOARD SECRETLY PRIVILEGE IS ALSO SUBJECT TO PROCEDURAL REQUIREMENTS!

IT MUST BE FORMALLY ASSERTED AND SUPPORTED WITH SPECIFIC FACTUAL ALLEGATIONS. SEE U.S. V. REYNOLDS, 345 U.S. 47-8 (1953), AN IMPROPERLY ASSERTED CLAIM OF PRIVILEGE IS NO CLAIM OF PRIVILEGE.

OF PRIVILEGE.

JUDGE CAMPBELL'S DUTY TO BE IMPARTIAL IN DECIDING DISPUTED ISSUES WAS

IGNORED IN THIS CASE BECAUSE A FAIR APPLICATION OF THE RELEVANT DETERMINATION TO THE FRAMEWORK OF THE COMPLAINT REFUTES THE FINAL ORDER OF THE COURT. IN THAT, THE

APPLICABLE LAW IS ANALOGOUS AUTHORITY TO THE FRAMEWORK OF THE COMPLAINT. WHEREIN, IN THE CASE OF MONROE V. THIGPEN, 932 F.2D 440, 1111 (11th CIR. 1991), THE CIRCUIT COURT

NEGATES THE FINDINGS OR FACTUAL ALLEGATION, I.E. HE GAVES CLAIM INFORMATION IN HIS FILES IS INCOMPLETE, AND IN THE OF ROBE V. STATE, 256 GR. 195 (1984) THE SUPREME COURT NEGATES

THE FINDINGS OR FACTUAL ALLEGATION, I.E. PLAINTIFF IS NOT PERMITTED TO HAVE ACCESS TO HIS PAROLE FILES. SEE §42-9-19, O.C.G.A.

FOUNT FOUR

JUDGE CAMPBELL'S FAILURE TO CONSIDER OTHER CLAIMS AND OR RESPONDENTS DENIED PETITIONER ACCESS TO THE COURTS AND OR DUE PROCESS OF LAWS.

FUNDAMENTATION OF ERROR FOR

IN THE INSTANT CASE, IT CANNOT BE SAID WITH ASSURANCE THAT THE ALLEGATIONS OF THE COMPLAINT

DEMONSTRATE BEYOND DOUBT THAT THE PETITIONER CAN PROVE NO SET OF FACTS WHICH WOULD ENTITLE HIM TO RELIEF AGAINST RESPONDENTS DEPT. OF CORRECTIONS, SEE TORSON V. JONES, 173 GA. 346 (1982). A LIBERAL READING OF THE COMPLAINT REVEALS A POTENTIALLY VALID CAUSE OF ACTION

AGAINST RESPONDENT BRAIN OCEANS AND JAMES DONALD UNDER 50-137D, O.C.G.A. SEE CLARK V. STATE OF GA. PARDONS AND PAROLE Bd. 915 F.2d 636 11th Cir. 1990. ALSO SEE CHARRON V. STATE Bd OF PARDONS AND PAROLE, 253 GA 274 (1984), AND PARSE V. MARRIS, 879 F. SUPP. 1560,

(ND. GA. 1995).

CLEARLY THE PETITIONER IS ENTITLED TO CHALLENGE DEFENDANTS UNSUBSIDIZED PRACTICES,

PROCEDURES AND APPLICATION OF POLICY, THAT ABRIDGE THE PROTECTIONS OF HIS

STATE CONSTITUTIONAL AND STATUTORY ENTAILMENTS, UPON PETITION FOR DECLARATORY JUDGMENT,

IN THE SUPERIOR COURT FOR FULTON COUNTY, PURSUANT TO 50-13-10, O.C.G.A., AND THAT COURT

CANNOT SAY THAT THE INFORMATION ACCESSIBLE TO THE GENERAL ASSEMBLY WITHIN THE FRAME-

WORK OF THE COMPLAINT, SUCH AS PAROLE ELIGIBILITY AND NOTIFICATION OF DECISION DATES, PRISON

COUSINERS' SUMMARIES AND INVESTIGATION REPORTS, THE ACTUAL FACTUAL BASIS FOR THE DECISIONS,

AND COURT OPINIONS, ARE NOT ASCERTAINABLE UNDER 542-9-19 AND OR 59-11-4(b) IN CAMERA

INSPECTION, AND OR THAT THE DEFENDANTS PROCEDURES, PRACTICES AND POLICIES ARE NOT

ASCERTAINABLE UNDER 59-11-34, O.C.G.A., AT THIS POINT, THE JUDGMENT OF THAT COURT SERIOUSLY

QUESTIONS HIS INTEGRITY.

WHEREUPON, IT WAS HELD WITHIN THE INTEREST OF JUSTICE TO DISMISS PETITIONERS

COMPLAINT. A PRO SE COMPLAINT IS NOT HELD TO THE SAME STRINGENT STANDARDS OF FORMAL

PLEADINGS, HAINES V. KERNER, 401 U.S. 519, 92 S. Ct. 544 (1974), AND THE COMPLAINT SHOULD

NOT HAVE BEEN DISMISSED FOR FAILURE TO STATE A CLAIM UNLESS IT APPEARED FROM AN

UNDERS REVIEWED DETERMINATION THAT THE FRAMEWORK OF THE COMPLAINT IS NOT WITHIN THE

MEANINGS OF 542-9-19, O.C.G.A. SEE GA. CONST. 1983, ART. IV, SEC. II, PARA. III, AND III.

CONCLUSION

FOR THE FOREGOING REASONS, THE GRANT OF MOTION TO DISMISS SHOULD BE

REVERSED AND THE CASE SHOULD BE

OF FULTON COUNTY.

Isabel B. Barks

ANGILO BERNARD BARKS, PRO SE,

CERTIFICATE OF SERVICE

I, ANGELO BERNARD BANKS (Your Name), hereby certify that I have cause to

be served a copy of the foregoing

BRIEF OF APPELLANT (Title of Motion) upon

OPPOSING COUNSEL FOR DEFENDANTS (Position/Title of Opposing Party) by

sending a true copy of the same by United States mail in a proper envelope with

adequate postage, properly addressed to:

1	<u>KARLA BROWN DOLBY</u>	2		3	
	<u>ASSIST. ATTY. GENERAL</u>				
	<u>40 CAPITOL SQUARE, SW</u>				
	<u>DEPT. OF LAW</u>				
	<u>ATLANTA, GEORGIA 30334</u>				

4		5		6	

This AUGUST day of 04th, 2014

Plaintiff, Pro Se
Washington State Prison
~~P.O. Box 206~~
Davisboro, Georgia 31018

04th AUGUST 2014

C/O: OFFICE OF THE CLERK
GEORGIA COURT OF APPEALS
47 TRINITY AVENUE, S.W. SUITE 501
ATLANTA, GEORGIA. 30334

RECEIVED IN OFFICE
2014 AUG 15 PM 3:44
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

RE: ANGELO BERNARD BANKS V. DEPT. OF CORRECTIONS, ET AL.
CIVIL ACTION NO. 2013 CV 231225, SUPERIOR COURT OF FULTON COUNTY.
STATE COURT GRANTING MOTION TO REOPEN TIME TO FILE APPEAL.

DEAR CLERK,

ENCLOSED, PLEASE FIND THE ORDER OF THE LOWER COURT GRANTING MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL. I HAVE RECENTLY SERVED THE NOTICE OF APPEAL, AND I HAVE INCLUDED MY BRIEF OF APPELLANT IN A TIMELY MANNER, FOR FEAR THAT PRISON OFFICIALS ONGOING RETALIATION AND HINDERANCE OF ACCESS TO THIS COURT, WON'T FURTHER DELAY A DECISION.

BE ADVISED THAT I ATTACHED A NOTICE OF APPEAL TO THE MOTION TO REOPEN TIME TO FILE NOTICE OF APPEAL, AND SINCE THAT TIME I HAVE NOT RECEIVED A DOCKET NOTICE FROM THIS OFFICE AFTER SUCH ORDER WAS ISSUED.

PLEASE ACCEPT MY BRIEF FOR FILING, THE TRIAL COURT RECORD WILL REVEAL MY RECEIPT OF THE ORDER ON JULY 29, 2014.

RESPECTFULLY SINCERE
S. Angelo B. Banks

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

Date: August 19, 2014

To: Bell & Washington LLP, Yvone M. Bailey, The Urban Suburban Building, 196 Peachtree Street SW, Suite 310, Atlanta, Georgia 30303

Docket Number: A14A1453

Style: Randall Gordon v. Arlene Abraham

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s).Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. **Other: Celeste Brewer is an E-filer. She must change her address within the E-filing system within her profile.**

Bell & Washington, LLP

196 Peachtree Street, SW
Suite 310
Atlanta, GA 30303

Telephone: 404.437.6641
Fax: 404.474.3730

Direct Dial: 404-589-3560

E-mail: celeste@bellwashington.com

RECEIVED IN OFFICE
2014 AUG 19 PM 2:51
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Celeste Findlay Brewer

August 15, 2014

SENT U.S. MAIL

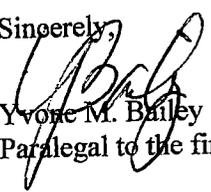
Court of Appeals of Georgia
Attn: Stephan E. Castlen
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

RE: Randall Gordon v. Arlene T. Abrahams
Case No: A14A1453

Dear Mr. Castlen:

I hope all is well. Enclosed please find the original and two copies of *Notice of Change of Address and Contact Information and Certificate of Service* to be filed for the above referenced case. Please file the original and return the copies to my office in self-address stamped envelope which has been provided for your convenience. Thank you for your assistance with this matter. Please contact the office should you have any questions or concerns. Have a wonderful day.

Sincerely,


Yvonne M. Bailey
Paralegal to the firm

Encl.

Cc: file
John B. Miller, Esq.
Dennis Collard, Esq.

Gainesville
Pruett Wheeler Whitmer House
539 Green St
Gainesville, GA 30501
770-535-8383
Fax: 678-228-1810

Clayton
124 N. McDonough St
Suite 202
Jonesboro, GA
404-437-6641
Fax: 404-474-3730

ORIGINAL

IN THE COURT OF APPEALS

STATE OF GEORGIA

RANDALL GORDON

Appellant

v.

ARLENE T. ABRAHAMS,

Appellee

)
)
)
)
)
)
)
)
)
)

CASE NO. A14A1453

**NOTICE OF CHANGE OF ADDRESS
AND CONTACT INFORMATION**

COMES NOW Celeste Findlay Brewer, attorney for Appellant,
and notifies the Court that her new address and contact
information are as follows:

Address: Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303

Phone: (404) 437-6641
Fax: (404) 474-3730
Email: celeste@bellwashington.com

This 15 day of August, 2014.

Celeste Findlay Brewer
CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com

IN THE COURT OF APPEALS

STATE OF GEORGIA

RANDALL GORDON)
)
 Appellant)
)
 v.) CASE NO. A14A1453
)
 ARLENE T. ABRAHAMS,)
)
 Appellee)

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I have served counsel for Appellee with a copy of the within and foregoing Notice of Change of Address and Contact Information by depositing a copy of the same in the United States mail with adequate postage affixed thereon as follows:

John B. Miller, Esq.
P. Justin Thrailkill, Esq.
Miller & Brown, P.C.
P.O. Box 142908
Fayetteville, GA 30214

Dennis Collard, Esq.
Kessler & Solomiany, LLC
101 Marietta Street, NW
Suite 3500
Atlanta, GA 30303

This 15 day of August, 2014.

Celeste Findlay Brewer

CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com

CO COPY

IN THE COURT OF APPEALS

STATE OF GEORGIA

RANDALL GORDON)
)
 Appellant)
)
 v.) **CASE NO. A14A1453**
)
 ARLENE T. ABRAHAMS,)
)
 Appellee)

**NOTICE OF CHANGE OF ADDRESS
AND CONTACT INFORMATION**

COMES NOW Celeste Findlay Brewer, attorney for Appellant,
and notifies the Court that her new address and contact
information are as follows:

Address: Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303

Phone: (404) 437-6641
Fax: (404) 474-3730
Email: celeste@bellwashington.com

This 15 day of August, 2014.

Celeste Findlay Brewer
CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com

IN THE COURT OF APPEALS

STATE OF GEORGIA

RANDALL GORDON

Appellant

v.

ARLENE T. ABRAHAMS,

Appellee

CASE NO. A14A1453

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I have served counsel for Appellee with a copy of the within and foregoing Notice of Change of Address and Contact Information by depositing a copy of the same in the United States mail with adequate postage affixed thereon as follows:

John B. Miller, Esq.
P. Justin Thrallkill, Esq.
Miller & Brown, P.C.
P.O. Box 142908
Fayetteville, GA 30214

Dennis Collard, Esq.
Kessler & Solomiany, LLC
101 Marietta Street, NW
Suite 3500
Atlanta, GA 30303

This 15 day of August, 2014.

Celeste Findlay Brewer

CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com

COPY

IN THE COURT OF APPEALS

STATE OF GEORGIA

RANDALL GORDON)
)
 Appellant)
)
 v.) CASE NO. A14A1453
)
 ARLENE T. ABRAHAMS,)
)
 Appellee)

**NOTICE OF CHANGE OF ADDRESS
AND CONTACT INFORMATION**

COMES NOW Celeste Findlay Brewer, attorney for Appellant,
and notifies the Court that her new address and contact
information are as follows:

Address: Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303

Phone: (404) 437-6641
Fax: (404) 474-3730
Email: celeste@bellwashington.com

This 15 day of August, 2014.

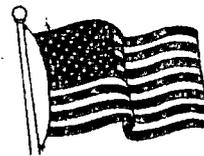
Celeste Findlay Brewer
CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com

This 15 day of August, 2014.

Celeste Findlay Brewer
CELESTE FINDLAY BREWER
Attorney for Appellant

Bell & Washington LLP
196 Peachtree St., SW
Suite 310
Atlanta, Georgia 30303
(404) 437-6641
(404) 474-3730
celeste@bellwashington.com



*Bell & Washington LLP
The Urban Suburban Building
196 Peachtree Street SW, Suite 310
Atlanta, Georgia 30303*

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 18, 2014

To: Mr. Reginald Copeland, GDC131770, Wilcox State Prison, Post Office Box 397,
Abbeville, Georgia 31001

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____.
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Reggie Capeland

Wilcox State Prison

P.O. Box 377

Abbeville, GA 31001

RE: Return Stamp as Record

And File Copy :

TO THE Clerk of COURT,

To The Honorable Clerk of Court, could you
Please Return A Copy of my petition for my personal
Record STAMPED AS Filed and Recorded, by your
Court as ENTERED.

RECEIVED IN OFFICE

2014 AUG 15 PM 3:35

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Thank you so very
much. Reggie Capeland

IN THE COURT OF APPEALS

STATE OF GEORGIA:

Reggie Copeland, I, me, my, myself

Case # 04-9-1006-33

Civil Action #

The living soul, A private Person, sovereign

-VS-

THE STATE OF GEORGIA: and

THE CORPORATION OF COBB COUNTY.

NOTICE OF APPEAL:

Now come Reggie Copeland, I, me, my, myself, sovereign, The living

Soul, A private Person; To Plead in and to this Honorable Court

from within the Provision set forth under the First Amendment

of the UNITED STATE Constitution; Pleading To Redress of Grievance

To correct a manifest of injustice;

To present a show of Fraud and deception by Officers of the

Court of COBB COUNTY SUPERIOR COURT, whom Deceived me in

To a unconstitutional Contract; using the Term Law;

I seek to be Granted by this Honorable COURT OF APPEALS;

Due Process of Law, from the Revision of The Fifth, and Fourteenth

Amendment of the UNITED STATE Constitution Amendment;

To show Actual INNOCENCES of what is said to be Unlawful Acts;

By The Government, "to wit ATTORNEYS"

I seek to be protected by this Honorable court; by being provided

The equal Protection of Law under the Provision set forth under

The fourteenth Amendment of The UNITED STATE Constitution;

by Voiding The Sentence and Contract I was compelled to

ENTER IN TO unknowingly by Officers of COBB COUNTY

SUPERIOR COURT ; TO WIT THE JUDGE , ATTORNEY , AND STATE ATTORNEY ,
TO WIT , MEMBER OF THE BAR ASSOCIATION ; TO WIT GOVERNMENT ;
FOR THE FOLLOWING REASON I PLEAD TO THIS HONORABLE COURT TO
VOID THE SENTENCE AND SENTENCING CONTRACT ;

Truth AFFIDAVIT Rule C (6) :

IN Commerce Everything must be stated in truth :

I Regeie Copeland , a Sovereign , a private person , a Creditor , a living soul ,
a secured party , and not a statutory person up on the land , OF THE UNITED
STATES by birth , do hereby solemnly say and state ; (1) secure party is
competent for stating the fact's and matter's set forth here within ,
2) secure party has personal knowledge about the fact's stated here in ,
3) Everything stated in this truth affidavit is the whole truth and nothing but
the truth , and all stated is True , correct , complete , and not misleading ,
No third party is Allowed ,

Plain statement about the fact's :

A) For resolving a matter it must be expressed (B) , IN Commerce truth is
Sovereign ; (C) , A unrebutted Truth affidavit become's the Judgement
IN Commerce (D) A Truth affidavit in commerce , and under commerce law ,
can only be satisfied by a rebuttal about the truth affidavit , by payment
by resolution , by a jury according by the rule for common Law .

A Lawful contract has , (1) , offer (2) consideration , (3) acceptance
by all parties for the contract , and (4) The signature by all parties
involved with the contract , only the parties signing the contract can
participate in the discussion of the contract ;
Full disclosure about the contract is imperative .

ON February 24, 2014 I brought Civil Action Pro'se
IN A PETITION OF Extraordinary Motion For New Trial under
Actual Innocence ; IN THE SUPERIOR COURT OF COBB COUNTY ;
STATE OF GEORGIA :

To wit ; (1) Deprivation OF Due Process OF Law and The Denial OF
The Equal Protection OF Law by Judge James G. Bodiford ,

It is That Judge Bodiford Allowed me to be Fraudulent
Presented to the Bench, by ATTORNEY Roy Robert ;
Allowing me unknowingly To Commit the act OF Fraud ; by accepting
A Name That was NOT Myself ;

Allowing me to be diverted from the Course OF ACTION in which I
was present in court for ON August 9, 2004 , To wit ANSWERING
A Claim under Common Law ; allowing me to be unknowingly AND UNINTELL-
-igently diverted in To The wrong Jurisdiction OF Court, To wit :
Admiralty ; Army Regulation 260-10 . Maritime law ;
Involuntarily Accepting a Name as a Corpor-Fiction ;
Depriving me OF The Fundamental fairness OF the Proceeding ;
Failing to ask me did I know the difference OF A living soul and
a Corpor-Fiction .

To wit ; Judge Bodiford Allowed me To unknowingly Enter the Jurisdic-
-tion OF Admiralty Failing To provide me The Equal Protection OF Law
where NOT only did The STATE Lack SUBJECT MATTER Jurisdiction to
TRY The Case ; But Judge Bodiford Allowed The STATE ATTORNEY
To Perjure Himself By STATEMENT To The Bench AS TO what is
Law ; Judge Bodiford Allowed The STATE To Perjure Testimony
To The Juror To wit Law - UNLAWFUL ACT ;
Judge Bodiford Allowed The STATE ATTORNEY To Present CODE'S and

me,

the Court, and Government, and committing the Act of Fraud in representing
Nor did I know, or understand, that an Attorney is a officer of
to the Constitution for the State, for the UNITED STATE, in 1939,
or Corporation, by the British Record Agency Act placed on
Esquire, Lawyer, Counselor, could only represent a corpor- fiction
where it is I did not know are understand that and Attorney
moving me to the Jurisdiction of Admiralty;

Compelling me by Susey; Forcing me to belong to a Association,
by failing to challenge subject matter Jurisdiction;
Attorney Robert presented me to the Bench as a corpor- fiction

August 9 2004 case # 04-09-1006-33 - To answer to.
in which I was present in the Superior Court of Cobb County GA
where Attorney Robert deceived me from insuring the claim

AT LAW ROY ROBERT;

Ground (2) Fraudulent Representation and Presentation by Attorney
o o Allowing me to enter a unlawful contract;

to commit Fraud and collusion and the actual crime of Fraud and collusion
Naturals; or other wise the Attorney is guilty of conspiracy
In fact my time a Attorney seek to represent a person whether

"To wit, misrepresenting Law To Service their esoteric tavarich
Court, member of The BAR Association, To wit" Government.

Attorney, Judge, and District Attorney are "Officers of the
As well as my 4th amendment where it is that all parties to wit

Violation of my 5, and 14 amendment right under the U.S. Const.
STATUTES, To The Bench as Law; To wit Fraudulent Prosecutorial.

GIVEN ATTORNEY Roy Robert, Government, BAR Association, Compelled me to commit the act of Fraud, Frauding myself to the Bench unknowingly; Sweeping me from the correct Jurisdiction of Court in which to answer the claim against me; which was civil; in the Jurisdiction of Common Law; To be heard in Common Law Jurisdiction.

Ground (3) Fraudulent Representation of Law, Fraudulent Prosecution by Assistant District Attorney Kathy Cozzo.

It is that Attorney Cozzo for the STATE OF GEORGIA, Frauded what is to be Law to the Bench; Attorney Cozzo Perjured Statement to be fact to the Bench; To wit CODES and STATUTES; AS UNLAWFUL ACTS; Deceiving the Juror; UNcorrected by the Bench; under the Administration Procedure ACT; No Towns, Cities, Counties, are STATE can pass Law's only Rule Regulation, Procedures, and STATUTE, CODE Rule's, Regulation, Procedures, STATUTE'S, are NOT Law;

"To wit; Causing the Juror to Discriminate against me; To Find me Guilty of Breaking the Law; when I would have only violated a CODE, and STATUTE.

Ground (4), Conflict of Interest Between Attorney and Client:

The Judge, The STATE ATTORNEY, and My ATTORNEY, are members of The BAR Association of America, Merchants, UCC § 2-104 (1) A Private Corporation, dubbing it members esquire, a title of nobility, and Strategically positioning its body to contract and eventually become Government; hybriding Law to serve their esoteric Tovarich, Paying homage to continue to stay Tenant to The BAR Association.

Where as I am a Private Person, Sovereign; Not subject under the

Foreign Jurisdiction Fleg.

There Fore The Government Created The Illusion of The Corpor-
Fiction, The All Capital Letter Name, To Contract with me
The Living Soul, because They, "The Corporate Government
and Corporation Can Not legally sign a lawful contract with
a living Soul "To wit"; Deception and Discrimination is used;
Giving the Conflict of Interest." All which are unconstitutional
ACTS. And Treason; To wit Tyranny by Officers of The Court.
Ground (5) The Usuris and Official of THE COBB COUNTY SUPERIOR
COURT; Violated MY UNIVERSAL Declaration of Human Rights,
Under Article 20 PART 2, Forcing me by Deception To belong to and
associations that I do not belong to To wit The Corporation "Govern-
ment"; when Forcing me to the Bench - Compelling me to Commit
the ACT OF Fraud to the Bench;
violation of Article (7) discrimination to the Equal Protection of Law
when the Judge fail to protect me against Perjured Testimony To wit
CODES and STATUTES being unlawful ACTS; As well as Incitement
to Such discrimination by Not correcting The Perjured Statement
to The Jurors. Allowing them to be MISINFORMED as to what is Law.
Article (2) For failing to uphold The rights under these Articles,
Article (8) Violating the Fundamental rights granted me by the Constitu-
tion or and by Law, To wit "I had the right's to an Effective remedy
by a competent National Tribunal; and was Compelled by Officers
of the Court To answer to them in The Correct Jurisdiction of Court.
Under Article (10) I was denied a fair and public hearing by a independent
and impartial Tribunal to answer to the Claim against me.

Article(5) My liberty was Taken , I am Subject To Cruel and degrading treatment

Article (6) I was not looked up on as a Private Person ,

Article (9) I was arbitrary arrested and detentioned, and Exiled.

Article (4) I was made A Slave, and is in servitude, where as

Slavery and servitude and the slave trade is prohibited in all it Formis , where it is I haven't broken the Law.

Article(12), AT(2), where I am held guilty of a Penal offence

that do not constitute a Penal offence, under national or International law.

Ground(6). Violations of my Rights under the UNITED STATE Constitution Amendments , By The OFFICERS OF COBB COUNTY SUPERIOR COURT under what is KNOWN as Case # 04-9-1006-33 where it is That PETITIONER - To wit, I was unreasonable searched and seized with out a warrant issued supported by oath or Affirmation Stating the place to be search or the Person or thing to be seized Amendment IV U.S. Const, Amend, AT The Time I was searched an seize

Amendment V : It is where I was Discriminated against by OFFICERS of The Court by Calling people - To wit Private Person , To wit Creditor's To Come in to The COBB County SUPERIOR COURT And Deceiving them to discriminate against me, my honour - by use of Law, to wit CODE AND STATUTE'S, That are Not Law, by Giving them A TITL Calling them Grand Jury; To Incite Them to Assist The Corporation To commit Fraud, by The ACT OF Fraud.

Then They the Corporation - Government - OFFICER OF The Court Compell me by deceiving me; Discriminating on my Ignorance To Answer to a Fraudulent Name, To commit a ACT OF Fraud

When I was brought before the Bench; Answering to the Name on the Docket; THE ACT OF SWAY, INFLUENCE, COMPELLED FROM THE COURSE OF ACTION I WAS THERE FOR, TO ANSWER A CLAIM, COMPELLED TO BE A WITNESS AGAINST MYSELF = FRAUDING MYSELF TO THE BENCH AS A CORPOR-FICTION VIOLATION OF MY RIGHTS UNDER THE FOURTEENTH AMENDMENT U.S. CONST. AMENDMENT; BEGIN WHEN THE ATTORNEY PERJURED CODES AND STATUTE'S TO THE BENCH AND JUROR AS LAW:

Violating The Administration Procedure ACT OF 1946.

To wit: NO STATE shall make or ENFORCE any Law which shall abridge - Shorting - lessen, the Privilege's - A basic Civil Right Guaranteed by a Government, or immunities "exemption or Freedom from something Burdensome or other wise unpleasant as a legal obligation": obligation - A bind Contract - Moral responsibility:

OF CITIZEN OF THE UNITED STATE.

Ground (7) Tyranny by officials of The SUPERIOR COURT OF COBB COUNTY, AS WELL AS Ground (8) Deprivation of LIFE, liberty and Property, By The Judge ATTORNEY, and District ATTORNEY OF The SUPERIOR COURT OF COBB COUNTY IN THIS CASE #01-1006-33, IT IS PROVED FACTS, and TRUE STATEMENT, THROUGH OUT Ground's 1 thru-6 where This Contract of Sentence is unlawful because of Fraud and Deception; TO WIT, I WAS UNKNOWINGLY INDUCE IN TO, AS WELL AS PRIVATE LIVING SOULS WAS INDUCE TO DISCRIMINATE AGAINST ME BY OFFICERS OF THE COURT, THESE PRIVATE LIVING SOUL ARE CALLED JURY. They, as well as I, was deceived as; TO WIT, Law, UNLAWFUL ACTS. I ask this court To void Sentence and Contract, AS I CLAIM MY RIGHTFUL NAME AS TO BE TRUE, The living soul, Reggie Copeland I, me, my, myself, Sovereign, A Private Person, creditor, National.

ON July 5, 2014. I filed in to the COBB COUNTY SUPERIOR COURT

A motion to impeach Judge James G. Bedford,

To The Chief Judge of The Superior Court for Cobb County,

When Return Letter on July 7, 2014, stating he had no jurisdiction

over The Subject and Matter.

It is that; Judge James Bedford fail to answer Rule NISI

And Motion of Extraordinary Motion for New Trial under

Actual Innocence, File February 2014 on the 24 day there of,

In Time for Answering Motion, by Rule from The Official

CODE OF GEORGIA ANNOTATE § 15-6-21 (A), and (D).

To wit was 90 days to respond;

After The impeachment motion Judge Bedford Responded out of

time Quoting yet Ga. Law; which did and do not answer

the facts of The Subject and matter File in my Motion;

To wit A COUNTY Jail is not a Penal Institution;

My life, liberty, Property, Happiness, and The Pursuit of was taken

by A unlawfully ENTER contract by The Act of Fraud and Deception

of Official of The Government; By Violations of my Rights

under Articles of the Universal Declaration of Human Rights.

And in Violation of my Rights from The UNITED STATE Constitution

A Contract That is NOT Binding by Signature, because of Forgery,

I was induce to sign a Document and induce to give Power of

Attorney to Attorney Roy Robert whom mishandle my Affairs

in Contracting;

To wit I was Mislead in to Contracting and Signing a Contract

with a officer of The Court;

Whom Misrepresented me in to Contracting with The Government.

A Contract That I appeal to this Honorable Court, To seek

in to the legality, and lawfulness of;

A Contract I seek this Honorable Court To void; because of

Such acts to which I was forced, compelled, Deceived

unknowingly, unintelligently, involuntarily on to;

A Contract That can NOT be allowed to be Bind up on me,

The living soul, A Private Person, Sovereign,

A Contract under The Universal Commercial Code,

Call U.C.C, Introduce under The subject Law,

The Matter, Unlawful Acts, Jurisdiction Admiralty,

A Act of Fraud and Treason By Government Agents,

Attorney's, Bar Associate member,

Signature by Agreement of Power of Attorney from a living

Soul, A National, creditor, A private Person, I, me, my, myself

Reggie Copeland; A contract by signature by The Government

A Government That can not lawfully contract with, a living soul

I ask this Honorable Court to void This Unlawful, unconstitutional-

national Contract. —

Reggie Copeland, Greater

Secure Party

This Document was prepared

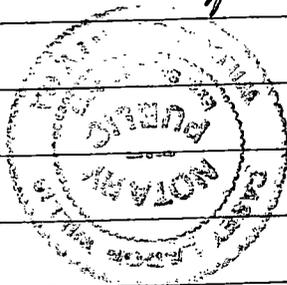
by Reggie Copeland, The living

Soul, A Private Person

X Reggie Copeland

Reggie Copeland, agent power

of attorney in fact



(Copy and W/ID)

This is a true and correct copy of the original as shown to me on this day.

X Reggie Copeland

Certificate of Service

I do hereby certify that I have this day served the within and
there of, then prepaid postage, in the UNITED STATE MAIL,
properly addressed as per:

Attorney General
Samuel Orens
Ga. Dept. of Law
40 Capital Sq. S.W.
Atlanta, GA, 30334

The Clerk of Court

Court of Appeals of Georgia:

Suite 501

47 Trinity Avenue

Atlanta 30334,



Reggie Copeland

PO Box 397 - 52

Wilcox State Prison

Abbeville Ga, 31001

UNIT 1317D

Ray Ad Wells

This is day August me 20 14 yr!



Court of Appeals of Georgia

August 18, 2014

TO: Mr. Victor Callahan, GDC80623 C-4-41, Georgia Diagnostic and Classification Center,
State Prison, Post Office Box 3877, Jackson, Georgia 30233

RE: **A14A1528. Victor Callahan v. The State**

REQUEST FOR COPIES

- We received your request for copies. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. The Court of Appeals of Georgia is not subject to the Open Records Act.

The appellant's Brief contains 20 pages.

The appellee's Brief contains _____ pages.

The opinion contains _____ pages.

Other:

The copies you requested are a total of 20 pages totaling \$30.00.

Please send your check or money order to the following address specifying what copies you wish be sent to you. Your request will be processed and sent to you by return mail.

**Court of Appeals of Georgia
47 Trinity Avenue, S.W. • Suite 550
Atlanta, Georgia 30334**

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

- At your request, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review.

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing.

To: Court of Appeals of Georgia
SUITE 501 47 TRINITY AVENUE
ATLANTA, GEORGIA 30384

RE: Copy of Brief Case No: A141528

DATE: Aug 5, 2014

CLERK OF COURT, SIR THE REASON FOR THIS LETTER IS TO SEE IF I
COULD RECEIVE A COPY OF THE BRIEF FILED IN THE ABOVE STYLE
CASE WHICH WAS FILED ON JULY 8, 2014.

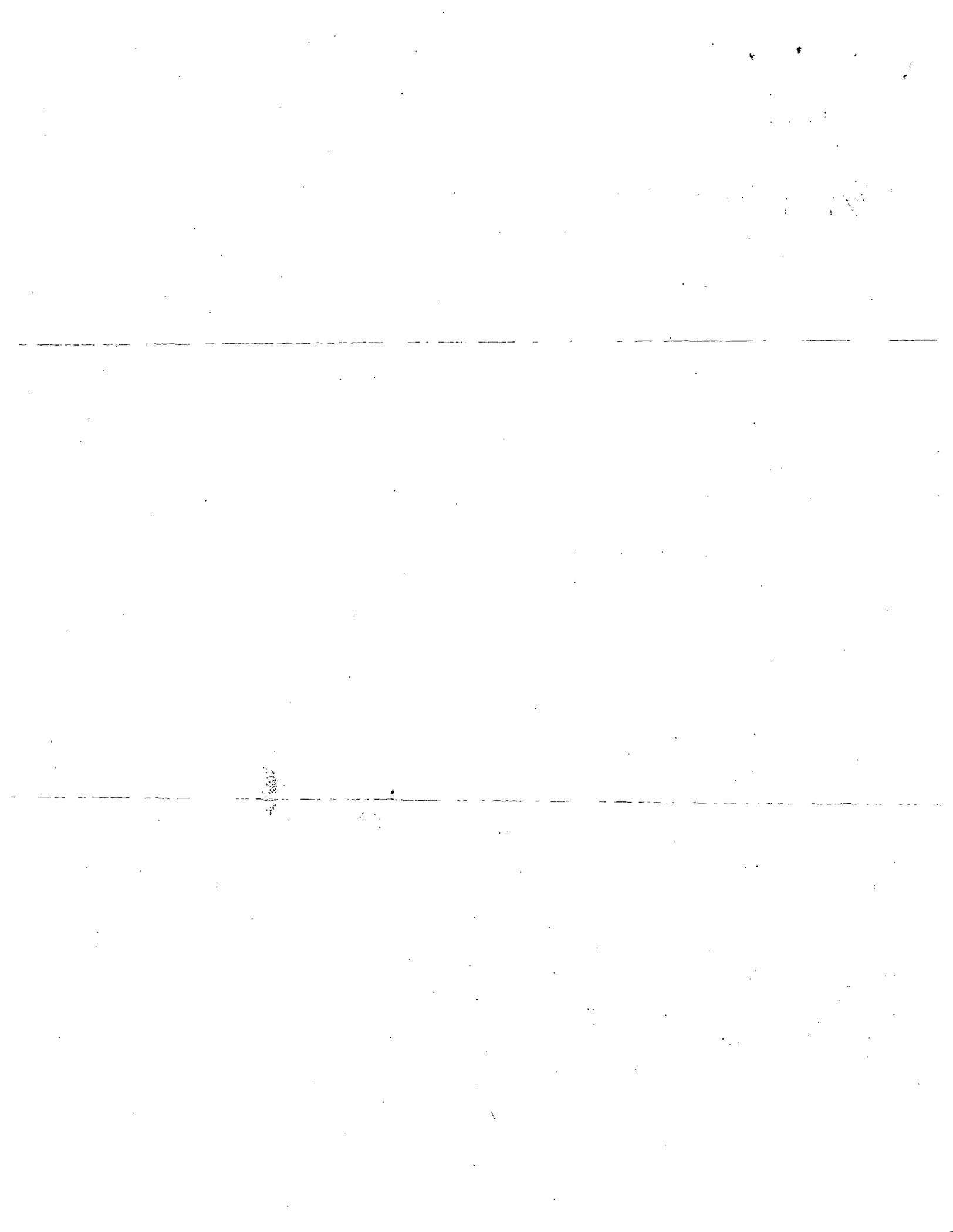
TODAY AUG 5, 2014 I RECEIVED A LETTER
FROM THE DISTRICT ATTORNEY OFFICE AT 525 E. WASHINGTON ST
ROOM 506, ATLANTA GEORGIA 30301 INFORMING ME THAT THEY NEVER
DID RECEIVE THE COPY OF THE BRIEF FILED ON JULY 8, 2014.

NOW I NO LONGER HAVE A COPY OF THE BRIEF
THAT I FILED ON JULY 8, 2014, DUE TO THE INSTANTION HAVING A
SHAKE DOWN AFTER AN INMATE WAS BEATEN TO DEATH, MUCH
OF MY LEGAL DOCUMENT WAS DESTROYED AND SET ON FIRE BY
THE INMATES THAT WAS OUT OF CONTROL.

MY APPEAL WILL BE DENIED IF I DON'T
SEND A COPY OF THE BRIEF TO THE DISTRICT ATTORNEY OFFICE BY
AUG 21, 2014. I'M AN INDIGENT INMATE WHO HAS NO MEANS
OF GETTING ANOTHER COPY OF THAT BRIEF, SIR PLEASE SEND ME
A COPY, OR LET ME KNOW HOW MUCH IT WILL COST TO GET A
COPY.

Respectfully Submitted
Victor Williams

RECEIVED IN OFFICE
2014 AUG 14 PM 3:35
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 19, 2014

Mr. Shawn H. Currier
GDC201968
Georgia Department of Corrections
Post Office Box 310
Valdosta, Georgia 31603

Dear Mr. Currier:

A Notice of Appeal is filed with the clerk of the trial court. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.

The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.

I am returning your correspondence to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

8-7-2014

Court of Appeals of Georgia

I am enclosing a copy of a letter

that I wrote the 11th circuit courts

asking for assistance. Since I do not

know what needs to be done, I wrote

the wrong courts...

I am also enclosing a handwritten

copy of said letter.

The reason that I have not contacted

you sooner is because I had to

read them several times over, my

court transcripts to locate all errors

it has taking me some time to

complete...

I still have not found an attorney who

can assist me as stated in my

handwritten letter to the courts.

Do you have any recommendation

concerning this request.

My problem is Mr. Michael W. Tartton

who works for the Public Defenders

Standard Counsel, Appeals Division.

At first notified me and told me

that he had grounds to present

my case via writ of certiorari.

Then 2 days before deadline he

sent me another letter stating

That he would not proceed to do so

By the time the dead-line (90 days)

came about I had less than 24

hours to file for an extension...

Upon Mr. Tavelton's sending his decision

he also resigned from handling my

case so I am uncertain of what

needs to be done. This is why I

am requesting your assistance and

knowledge in this matter.

As I said it has taken me

Almost 3 months to study my

transcripts and look up stuff in

the prison law-library

I am in dire need of assistance

and do not know what to do,

Can you please direct me in the

right direction.

my charges consist of: Felony murder

illegle disposal of a body and Auto Theft

I receive life plus ten years

I need your help.

Thank you for your time:

Respectfully

Shawn H. Currier

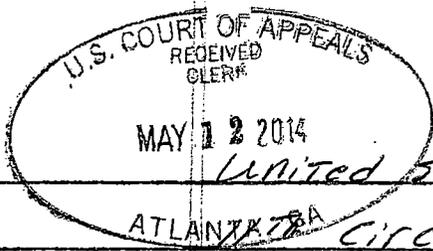
GDC 201968

Valdost State Prison

P.O. Box 310

Valdosta GA 31603

2-01-2



United States Court of Appeals

5-2-2014

ATLANTA, GA Circuit

56 Forsyth Street N.W.

Atlanta GA 30303

I am writing concerning a sever problem that i have.

on April-17-2014 my Appeal Lawyer Michael, W. Tasleton sent me a letter claiming that he has no merit to Petition a writ of certiorari with your Court. AFTER FIRST STATING HE HAS grounds to do so in his earlier letters.

i was about to run out of time to file this paper "The 90 days are about up" i have just now requested for another attorney to help me pro bono, to assist me in my future pursuit of justice concerning my case. There are several violations which should be looked at by your Department i would ask if there is any way to receive an extension on the 90 days my ex-lawyer just sent me my entire case files, court records, transcripts... etc on 4-30-2014 so by the time you receive this letter my time will have run out.

I DO NOT KNOW WHAT ELSE TO DO
BUT ASK FOR YOUR EXPERTISE OPINION
I AM GRATEFULLY IN APPRECIATION FOR
YOUR KNOWLEDGE AND SERVICES.

Respectfully

Shawn H. Carrier

EDC 201968

P.O. Box 310

Valdosta GA

31603

2 OF 2

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

Date: August 19, 2014

To: Ms. Selena Gooden, 3278 Flat Shoals, Decatur, Georgia 30034

Docket Number: A14D0250 **Style:** Selena Gooden v. Zachary Ellis

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: **The above referenced Discretionary Application was dismissed on March 4, 2014.**

Court of Appeals of the State of Georgia

ATLANTA, March 04, 2014

The Court of Appeals hereby passes the following order:

A14D0250. SELENA GOODEN v. ZACHARY ELLIS.

On December 20, 2013, Selena Gooden filed a pro se application for discretionary appeal in the Supreme Court, seeking to appeal a November 20, 2007 order modifying child custody. The Supreme Court transferred the case to this Court after determining that the action did not involve a judgment for divorce and alimony. We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v State*, 204 Ga App 582 (420 SE2d 393) (1992). Here, Gooden filed her application nearly six years after the trial court's order was entered. Accordingly, the application is untimely and must be dismissed for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/04/2014

*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.*

Stephen E. Castle

, Clerk.

~~REDACTED~~
ACTUAL APPEAL

SELENA GOODEN

PLAINTIFF-APPELLANT

Case number: 141648

GEORGIA COURT'S OF APPEALS

GEORGIA PROCEDURAL APPEAL OF FULTON COUNTY'S JULY 31, 2014 – ATTACHED IS AN UNSIGNED FINAL ORDER OF CONTEMPT DIRECTED TO GEORGIA APPELLATE COURT.

IN THE CASE OF

A14D025D

ZACHARY ELLIS

VS.

2009CV164068

SELENA GOODEN (Appellant)

AND I DON'T SUSPECT THAT THE GEORGIA COURTS WILL CONTINUE TO STEAL THE MONEY THAT JOHN GAVE ME IN MY SOCIAL SECURITY UNTIL I WIN MY CIVIL RIGHTS CASE.

APPEAL REGARDING FULTON COUNTY SUPERIOR COURT'S JULY 31, 2014 COURT UNSIGNED COURT ORDER.

FULTON COUNTY SUPERIOR COURT

(Appellant)
Selena Gooden.

Zachary Ellis PLAINTIFF

VS.

Selena Gooden

Courtesy copy

CASE #: 2009cv164068

JUDGE WENDY SHOOB

JUDICIAL OFFICER ALEMBIK

"UNNAMED PRESIDING JUDGE

THE JUDICIAL OFFICER OF THAT JULY 31, 2014 SUPERIOR COURT OF FULTON COUNTY HEARING IS FRIENDS WITH GWINNETT COUNTY JUDGE FRANZEN (HOWEVER, DIDN'T SIGN THE JULY 31, 2014 CONTEMPT ORDER TO TOUCH THE MONEY JOHN GAVE SELENA THUS FAR IN SSI. ADDITIONALLY, THE JUDICIAL OFFICER SHOULD NOT HAVE PROVIDED AN INCOME DEDUCTION ORDER WHEN HE OWES SELENA AN EXISTING DEFAULT JUDGEMENT FROM 2012. ZACK WAS A FAILURE TO APPEAR AND THE COURTS HAVE PROOF HE WAS SERVED. ADDITIONALLY THE "UNSIGNED FINAL ORDER OF CONTEMPT ASKS ME TO APPEAR IN COURT ON AUGUST 27, 2014 AT 4 P.M. I AM IN WASHINGTON, DC "UNDER WITNESS PROTECTION" AND USDOJ AND INVESTIGATORS IN WASHINGTON ARE IN THE PROCESS OF RECOVERING MY CHILD.

THE MOTHER WITNESSED ZACHARY ELLIS HAVING SOLICITED THE JUDICIAL OFFICER INTO SEXUALLY HARMING GOODEN'S CHILD DURING THAT HEARING. JUDICIAL OFFICER, I AM PROCEDURALLY APPEALING THE "UNSIGNED FINAL CONTEMPT ORDER" JUST AS A CAUTION, ALSO OPENED A COMPLAINT WITH THE U.S. JUSTICE DEPARTMENT IN WASHINGTON D.C. TO INVESTIGATE THE ISSUES REGARDING MY CHILD, AND THUS FAR, THE FEEDBACK FROM THE INVESTIGATOR IS THAT THEY ARE SEEKING TO TERMINATE ZACKARY ELLIS' PARENTAL RIGHTS IN THE RECOVERY OF MY CHILD, CALEB GOODEN.

PER SUPREME COURT JUSTICE SCALIA THE COURTS OBJECTIVE IS TO MAKE ~~THE~~ WHOLE THEREFORE ALLOWING A JOINDER OF ISSUES LAWSUIT THAT CANNOT BE HANDLED DISSOCIATIVELY FROM THE CHILD CASE BECAUSE OF U.S. DISTRICT COURT NORTHERN' DISTRICT OF GEORGIA'S FAILURE TO ADJUDICATE THE CIVIL RIGHTS LAWSUIT ORIGINALLY. U.S. COURT OF APPEALS NORTHERN DISTRICT OF GEORGIA HAD BROKEN UP PLAINTIFF'S AND HER CHILD'S RELATIONSHIP AND PLAINTIFF'S PLACED SELENA'S CHILD'S LIFE IS ENDANGERED. THE PLAINTIFF'S VERY YOUNG CHILD AND ONLY CHILD IS HELD HOSTAGE URGENTLY IN NEED OF RESCUE. THERE WAS A CONSPIRACY IN PLAY TO STEAL PLAINTIFF'S CHILD BECAUSE PLAINTIFF INITIATED A CIVIL RIGHTS LAWSUIT 2007 WHICH SHOULD HAVE PROVIDED A DEFAULT JUDGEMENT IN 2010 FOR \$100,000,000 TREBLE WHICH IS WHY PLAINTIFF TRANSFERRED HER LAWSUIT TO HER HOMETOWN OF MICHIGAN.

*selena, plaintiff in a
civil
rights
law
suit
whole*

THE ONLY TWO DIVISIONS THAT SHOULD EXIST IN SELENA GOODEN'S LAWSUIT ARE THE CIVIL ELEMENTS VS. THE CRIMINAL ELEMENTS (THE CHILD'S KIDNAPPING AND HOSTAGING CRIMINALITY), AND SELENA CURRENTLY IN FEDERAL 6TH CIRCUIT COURT OF APPEALS TO HANDLE EVERYTHING. A PHASED JUDICIAL IMPLEMENTATION APPROACH THAT BEGINS WITH "THE BABY'S" RESCUE FROM A SADISTIC AND BARBARIC CRISIS.

- a. ROCKDALE COUNTY STOLE "THE U.S. SUPREME COURT'S BABY, CALEB", "SELENA AND JOHN'S" CHILD AND JOHN'S #2 SPY. MY CHILD IS #2 SPY AND I SELENA IS THE #1 SPOTLIGHT (HAVING WORKED INTELLECTUALLY, A WAR ON TERRORISM INVESTIGATOR, PLACING A SPOTLIGHT ON CRIMES). WHILE U.S. CHIEF JUSTICE JOHN ROBERTS IS #1 SPY.....AND JOHN'S COVERT SYMBOLS ARE ALSO ON SELENA'S AND CALEB'S BIRTH CERTIFICATE IN A SIGNIFICANT WAY. ALSO THE U.S. SUPREME COURT COVERT SYMBOLS ARE ON CALEB AND SELENA IN A SIGNIFICANT WAY.

THE REASON SELENA HAS DRIVEN FROM ATLANTA, GA ON 8/1/14 TO WASHINGTON DC, TO JOHN, U.S. SUPREME

WITH ALL OF MINE AND CALEB'S COVERT TAGS AND OUR HISTORY CONNECTED TO JUSTICE, IT MAKES LOGICAL SENSE THAT THE U.S. SUPREME COURT AND JOHN ARE MY "SECRET WEAPONS" HERE AND ENCOURAGED TO WIN MY LAWSUIT.

I ALSO ACKNOWLEDGE THAT, The 6TH CIRCUIT court of appeals decision usually will be the final word in the case, unless it (a) sends the case back to the trial court (MI) for additional proceedings, or (b) the parties ask the U.S. Supreme Court to review the case. In some cases (c) the decision may be reviewed en banc BY OTHER APPELLATE COURTS.

FOR THE REASON OF GEORGIA'S CORRUPTION, GOODEN'S FULTON COUNTY SUPERIOR 7/31/14 CONTEMPT ORDER IS APPEALED TO FEDERAL 6TH CIRCUIT COURT OF APPEALS MICHIGAN, KENTUCKY, OHIO, TENNESEE. REGARDLESS "JOINDER OF ISSUES"...VICTIM TO BE MADE WHOLE. ALSO SELENA IS PROVIDING PROCEDURAL COURTESY, BY SENDING A COPY OF THE FULTON COUNTY SUPERIOR COURT'S GEORGIA AND GEORGIA COURTS OF APPEALS HAVING ALREADY BEHAVED CORRUPTLY IN THE PAST JULY 31, 2014 CHILD HEARING, NOW UNDER INVESTIGATION AT THE U.S. DEPARTMENT OF JUSTICE. THE APPEAL TO GEORGIA COURTS IS A PROCEDURAL COURTESY

~~...I NEVER BEEN MARRIED TO ZACHARY ELLIS.~~

GEORGIA COURTS OF APPEALS HAD ALSO HIDDEN MY CASE FILES FROM PUBLIC RECORD. I DON'T EXPECT TO PAY FILING FEES, AND THE LAST TIME I TRIED TO ESTABLISH A FILING, THE APPELATE CLERK IN GEORGIA WOULD NOT ALLOW ME TO FILE ANYTHING FURTHER, DIDN'T WANT TO BE INVOLVED WITH ANY OF IT ; AND THE GEORGIA STATE SUPREME COURT HAS ALREADY INDICATED THAT MY CASE IS NOT THEIR JURISDICTION.

HOWEVER, THE GEORGIA COURT OF APPEALS HAD UNLAWFULLY AND DISHONESTLY STATED IN THEIR ORDER INNUENDO SUGGESTING THAT CALEB HAD BEEN IN ZACK'S PHYSICAL CUSTODY FOR A LONG TIME (AND THAT'S CONTRARY TO THE TRUTH). HOWEVER, THE USDOJ INVESTIGATOR ALREADY HAS CALEB'S TESTIMONY AND FEEDBACK THAT HE RESIDED WITH HIS MOTHER HIS ENTIRE LIFE UNTIL HIS 6TH GRADE YEAR.

HELP REQUESTED

I, PLAINTIFF, AM REQUESTING FIRST, (THE 6TH CIRCUIT COURT'S INTERVENTION TO RESCUE MY BABY FROM HOSTAGING NOW. BY THE TIME 6TH CIRCUIT COURT HAS RECEIVED THIS, I WOULD HAVE VISITED THE U.S. SUPREME COURT TO: ASK TO MEET WITH JOHN ROBERTS; ETHAN TORREY OR CHIEF LEGAL (EXPECTING ME); ALTHOUGH JOHN MAY NOT BE AROUND BECAUSE HE'S OUT FOR THE SESSION AND HIS SECRETARY HAS STATED THAT THE JUDGES INTERMITTENTLY VISIT THE OFFICE DURING THIS TIME AT THEIR LEISURE, (JOHN'S THE #1 SPY) THE OFFICES AT THEIR LEISURE DURING THIS TIME PERIOD. HAVING ALSO, SPOKEN WITH LOUISE SCHWARMER AT 6TH CIRCUIT COURT ON THE WAY DRIVING INTO WASHINGTON AND SHE'D STATED THAT MY CASE IS BEING REVIEWED AND THERE IS AN EXPECTATION OF A FUTURE RULING AND THAT I SHOULD PAY MY FEES OR APPLY FOR FORMA PAUPERIS SO THAT EVERYTHING STAYS ACTIVE. I HAVE PAID THE FEES.

...IT'S 8/2/14 AND I AM A COUPLE OF HOURS AWAY FROM WASHINGTON, DC AND EXPECT TO VISIT THE SUPREME COURT ON MONDAY. MY BABY NEEDS TO BE RESCUED FROM ENDANGERMENT AND I NEED HIM BACK URGENTLY (PHASE I).

I am enroute from Georgia to Washington DC to the U.S. Supreme Court to talk with General Counsel Ethan Torrey or Chief Legal, or Chief Justice Roberts because my only child was psychologically tortured and is being held hostage. I DID NOT MARRY ZACKARY ELLIS FOR THE REASON MY CHILD WAS CONCEIVED BY RAPE "WITHOUT CONSENT". ON A SCALE I WOULD TESTIFY THAT ZACHARY WITHOUT MY CONSENT IMPREGNATED ME BY BEING "PUSHY" (NOT AGGRAVATED FORCEFUL). ACCORDING TO THE LAW ITS RAPE.

REGARDLESS OF MY RAPE CONCEPTION, I AM DEVOTED TO MY CHILD AND I LOVE HIM VERY, VERY, VERY MUCH.

RELIEF

SELENA HAS ASKED PERMISSION FROM JOHN AND THE

- (1) 6TH CIRCUIT COURT'S RECOMMENDATION AND HAS FORWARDED HER COMPLAINT AGAINST THE FATHER TO THE U.S. FEDERAL ATTORNEY GENERAL IN WASHINGTON DC FOR INVESTIGATIONS. I AM ALREADY IN WASHINGTON, D.C AND HAVE OPENED AN EMERGENCY COMPLAINT AND THUS FAR, THE FEEDBACK IS FAVORABLE THAT ZACKARY'S PARENTAL RIGHTS ARE BEING**

**TERMINATED AND CALEB WILL BE JOINING
ME IN WASHINGTON, DC.**

JOHN'S SELENA AND CALEB INNOCENT LIVES. SELENA GOODEN (A SOPHISTICATED, TALENTED, SOPHISTICATED, RESPECTABLE WOMAN AND EXCELLENT MOTHER) THAT POINTS TO U.S. SUPREME COURT JUSTICE JOHN ROBERT'S AND HIS COVERT SYMBOLS ESTABLISHES JOHN AS A RELATIVE TO SELENA AND CALEB AND ESTABLISHED JOHN AS SELENA AND CALEB'S GRANDFATHER, "CALEB'S FATHER", "SELENA'S FATHER"; SELENA'S HUSBAND; SELENA'S BROTHER; SELENA'S UNCLE; AND JOHN'S THE #1 SPY; SELENA'S #1 SPOTLIGHT; AND CALEB'S THE #2 SPY AND JOHN MAPS BACK TO SELENA'S HISTORY. SELENA AND CALEB HAVE OTHER COVERT SYMBOLS THAT MAP DIRECTLY TO THE U.S. SUPREME COURT. ALSO, SELENA'S CHILDHOOD NICKNAME ALSO "WEWE THE BUSHWACK", THE BUSH'S, SR., ETC. WERE AROUND INFLUENCING SITUATIONS IN SELENA'S CHILDHOOD HISTORY AND IN JOHN'S AND JOHN IS BUSH'S APPOINTEE TO THE U.S. SUPREME COURT....AND SELENA COMMON YET "GOOD" AND "GOOD" IS MORE THAN HER NAME AND IT'S PROVEN AND ~~CONFESSED~~ CONFESSED HAVING HAD EVERYTHING YET INVADDED LIVES OUT OF JEALOUSY AND HAD TRIED TO GAIN SUPERIORITY OF A DISINTERESTED WOMAN BEHAVING HONORABLY, LIFETIME.

Former
A Federal
Politician

FULTON COUNTIES COURT "UNSIGNED FINAL ORDER OF CONTEMPT 31, JULY 2014, ATTEMPTS TO MAKE THE MOTHER PAY APPROXIMATELY \$8,000 IN BACK CHILD SUPPORT AND IS NOT SIGNED. THE ORDER FROM THE JULY 31, 2014 CONTEMPT HEARING IS NOT SIGNED...HAS NO LETTERS AND DOES NOT QUALIFY FOR OFFICIAL SIGNATURE IN ANY REGARD.

THAT ORDER IS ALSO AN INCOME DEDUCTION ORDER POSITIONED TO TAKE THE VICTIMIZED MOTHER'S \$233 PER MONTH FROM THE MOTHER'S SOCIAL SECURITY PAYCHECK WHILE THE FULTON COUNTY JUDICIAL OFFICER ALEMBIK/SHOOB/??? LEFT HER CHILD IN ENDANGERMENT HAVING NOT ENFORCED THE LAW REGARDING VISITATION SO THE MOTHER HAS ACCESS TO HER CHILD BEING HELD HOSTAGE. SELENA IS QUALITY WITH AN EXPECTATION OF A WINNING LAWSUIT. JUDGE AMY TOTENBERG HAD ALREADY WRITTEN A WINNING COURT ORDER THAT EXPRESSED "WHOLLY PHENOMENAL" "FANTASTIC" AND THAT SELENA IS A SWEETHEART WHO NEEDS NOT COMPARE TO ANY OTHER AND THAT SELENA'S QUALITY SURPASSES THE PRESIDENTS WIFE, *SELENA AND CALEB'S BIRTH CERTIFICATE EVEN HAS JOHN ON IT VS. A QUESTIONABLE BIRTH CERTIFICATE IN THE* SELENA, A GRACIOUS, NATURALLY INTELLIGENT WOMAN WITH TYPICAL MIDDLE CLASS VALUES THAT *white house* HOLDS TRUE EVEN TODAY IN MOST MIDDLECLASS FAMILIES, AND THE MAJORITY OF CITIZENS PROTECTIVE OF THEIR OFFSPRING, AND JUST LIKE MOST MOTHER'S WITH A MOTHERLY INSTINCT, SELENA AT THE TIME OF CONCEPTION, CHANGED HER LIFE HAVING ALWAYS HELD GOOD VALUES AND IMPROVED THEM FOR MOTHERHOOD, AND CELIBACY, DESPITE HAVING DATED NFL AND HEAVY WEIGHT CHAMPION EVANDER HOLYFIELD'S NEIGHBOR "A SOUGHT AFTER ELIGIBLE BACHELOR IN GEORGIA AND SELENA COULD HAVE MARRIED HIM AND DIDN'T WANT NOR NEED TO MARRY.

"JACK'S (CALEB AND SELENA) ARE BLAMELESS HOSTAGES TO THE SITUATION AND DIDN'T KNOW THAT JOHN, (VERY TERRITORIAL) HAS COVERT SYMBOLS THAT ESTABLISHES JOHN A RELATIVE TO SELENA AND CALEB AND ESTABLISHED JOHN FOR SELENA AND CALEB'S GRANDFATHER, "CALEB'S FATHER", "SELENA'S FATHER"; SELENA'S HUSBAND; SELENA'S BROTHER; SELENA'S UNCLE; AND JOHN'S THE #1 SPY; SELENA'S #1 SPOTLIGHT; AND CALEB'S THE #2 SPY AND JOHN MAPS BACK TO SELENA'S HISTORY. SELENA'S CHILDHOOD NICKNAME

ALSO "WEWE THE BUSHWACK", THE BUSH'S ARE IN SELENA'S CHILDHOOD HISTORY AND JOHN'S AND JOHN IS BUSH'S APPOINTEE CHIEF JUSTICE TO THE U.S. SUPREME COURT ON SELENA'S FATHER BIRTHDAY. BOTH CHIEF JUSTICE JOHN ROBERTS FATHER AND SELENA'S FATHER GO BY THE NAME "JACK".....AND SELENA IS "GOOD" AND SMART AND "GOOD" IS MORE THAN HER NAME AND IT'S ALL PROVEN AND SELENA IS A WOMAN OF SUPREME HONOR, AND U.S. SUPREME CHIEF JUSTICE JOHN ROBERTS (IS SUPPOSE TO BE THE JUDGE OF THE HIGHEST HONOR) WAS SUPPOSE TO PROTECT "GOODNESS" (SELENA AND CALEB) HIS FAMILY AND RESPONSIBILITY AND "GOODNESS" GOT UNROMANTICALLY UNCONNECTED OVER THE COURSE OF THE JOURNEY BECAUSE SELENA SO FAR AWAY.

SELENA GOODEN, UNDER WITNESS PROTECTION HAS MOVED TO WASHINGTON, DC (NEAR JOHN) AND CALEB WILL SOON BE IN WASHINGTON, DC. ALSO. A U.S.DOJ INVESTIGATION IS UNDERWAY THAT WILL TERMINATE ZACKARY ELLIS' PARENTAL RIGHTS AND GET CALEB GOODEN TO WASHINGTON, D.C. WITH HIS MOTHER.

SELENA GOODEN

Selena Gooden

8/15/14

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA
FAMILY DIVISION

ZACHARY ELLIS,

Petitioner,

Vs.

SELENA GOODEN,

Respondent.

Judge Wendy Shoob

CIVIL ACTION FILE NUMBER:

2009CV164068

FINAL ORDER ON CONTEMPT

The Petitioner and Respondent having come before this Court for a Contempt hearing, and the Petitioner and Respondent having presented testimony and evidence to the Court, the Court hereby enters the following Order on Contempt:

1.

Findings

That a Final Order on Modification of Child Support was entered on October 22, 2009. That said Final Order provided for the Mother to pay the Father the sum of Two Hundred Thirty Three Dollars (\$233.00) per month for the support and maintenance of the minor child of issue in this matter. Said child support obligation was to commence on November 1, 2009.

- (c) That at the July 31, 2014 contempt hearing the Petitioner testified that as of July 31, 2014 the sum of Eight Thousand Two Hundred Seventy Four Dollars and Six Cents(\$8274.06) is owed in past due child support.
- (d) That at the July 31, 2014 Rule Nisi hearing the Respondent/ Mother testified that she is presently receiving Social Security benefits.
- (e) That at the July 31, 2014 Rule Nisi hearing the Respondent/Mother testified that she received a lump sum payment from social security for benefits that were retroactive from the date the Respondent applied for social security. The Respondent also testified that she has Eighteen Thousand Dollars remaining from said lump sum payment.
- (f) The Mother alleges that the child of issue resides and or resided with the her the Mother.
- (g) The evidence failed to establish that the minor child resided with the Mother during the period the Father seeks to recover arrearages.
- (h) The Court notes that it will not credit the Mother for any periods that the child was alleged to have visited with the Mother.

2.

Finding of Contempt

The Court finds that the Respondent is in willful contempt for failing to pay the child support obligations arising from the Court's October 22, 2009 Final Order on Modification of Child Support.

3.

Purge Obligation and Purge Date

The Respondent shall appear in Court at 4:00 pm on August 27, 2014. At that time the Respondent shall pay the sum of Eight Thousand Two Hundred Seventy Four Dollars and Six Cents (\$8274.06) to purge herself from contempt. A failure to pay said purge obligation (\$8274.06) shall result in the Respondent's immediate incarceration.

4.

Income Deduction Order

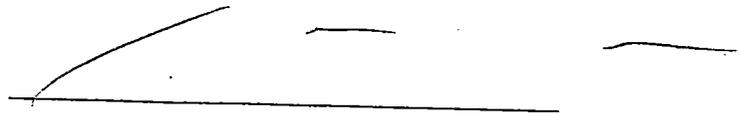
The Court will enter an Income Deduction Order, upon presentment of same.

5.

Service Fee

The Mother shall reimburse the Father for the service fees (\$50.00) within sixty days of the entry of this Order.

SO ORDERED THIS 31st DAY OF JULY, 2014.


GARY M. ALEMBIK, JUDICIAL OFFICER
FOR: JUDGE WENDY SHOOB
SUPERIOR COURT OF FULTON COUNTY

NO signature
However re-establishing
AN income deduction
or from 2011 to
take money from
Goalen's social security
Also trying to take
Goalen's \$8,000
And did not provide
Goalen an emergency child
hearing to rescue her child
to that the father
led the subpoena
in front of
idk.

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

August 20, 2014

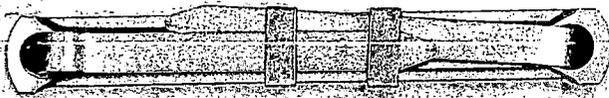
To: Ms. Claudia Dawson, 3180 Water Brook Drive, Conyers, Georgia 30094

Docket Number: **Style:** **Claudia Dawson v. Mark Butler, Commissioner of Department of Labor, et al.**

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. **Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6**
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. Other:

For Additional information, please go to the Court's website at: www.gaappeals.us



FILED IN OFFICE

AUG 19 2014

CLERK, COURT OF APPEALS OF GEORGIA

August 14, 2014

Claudia Dawson

Civil Action NO. 2014CV247201

VS

Superior Court of Fulton County (State of Georgia)

Honorable Ural D. Granville

RECEIVED IN OFFICE
2014 AUG 19 AM 1:40
CLERK OF SUPERIOR COURT
FULTON COUNTY, GA

Application for Discretionary Appeal

Come now Claudia Dawson files this application for Discretionary appeal respectfully showing the court as follows.

I filed pursuant to O.C.G.A 34-8-223 for Judicial review of the administration decision of the Board of Review of Georgia Department of Labor Board in which process of service was perfected upon Respondent Mark Butler (Commissioner of Department of Labor) in the Fulton County Superior Court (State of Georgia) and my Judicial Review was denied.

I am hereby filing this application for Discretionary Appeal to the Court of Appeals of Georgia to have this reversed due to the fact that the Superior Court did not look at all the evidence presented in the statements.

On March 12, 2014 a notice of telephone hearing was conducted by administrative hearing officer Janice Bullard.

Clearly in the recorded information (hearing notice/ testimony). I Claudia Dawson did not violate a company policy but rather it was clear that due to the fact that I was fatigue and still in training reconciling this paperwork, working under stressful workload, several mistakes were made on several time cards yet the only one that was singled out was mine.

In my recording I also stated that the time cards that I filled out had numerous mistakes. So therefore my time card was not the only one affected.



(W) KBL

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE
JUL 21 2014
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

CLAUDIA DAWSON,
Petitioner,

vs.

MARK BUTLER, Commissioner of
Department of Labor, and SOUTHWEST
AIRLINES,

Respondents.

Civil Action No. 2014CV247201

Honorable Ural D. Glanville

FINAL ORDER

Petitioner filed, pursuant to O.C.G.A. § 34-8-223, the above-captioned petition for judicial review of the administrative decision of the Board of Review of Georgia Department of Labor ("Board"). Service of process was perfected upon Respondent Butler. (Doc. no. 4). Upon consideration of the record and relevant authority, the above-captioned petition is DENIED, the final decision of the Board is AFFIRMED, and this matter is CLOSED.

I. BACKGROUND

Liberally construing the above-captioned petition, the Court finds the following. Petitioner names Mark Butler, Commissioner, Georgia Department of Labor, and Southwest Airlines ("Southwest") as Respondents. (Doc. no. 1, Pet. ¶¶ 3-4). Petitioner contends that, from November 8, 2002, until January 9, 2014, she was employed by Respondent Southwest. (Id. ¶ 5).



BOARD OF REVIEW
 EMPLOYMENT SECURITY AGENCY
 STATE OF GEORGIA

IN RE: CLAIM OF:)
)
 CLAUDIA S. DAWSON) DOCKET NO. 5224-14
 3180 WATERBROOK DRIVE)
 CONYERS, GEORGIA 30094)

HEARING CONDUCTED BY HON. JANICE BULLARD,
 ADMINISTRATIVE HEARING OFFICER, GEORGIA DEPARTMENT
 OF LABOR, COMMENCING MARCH 12, 2014..

 APPEARANCES:

ON BEHALF OF THE CLAIMANT: CLAUDIA DAWSON

ON BEHALF OF THE EMPLOYER: KEVIN LEWIS, MANAGER

TRANSCRIBED BY M. ARONSON, WILLIAMS & ASSOCIATES,
 APRIL 25, 2014 .



RECEIVED

MAR 18 11

BOARD
OF REVIEW

To the Georgia Department of Labor — Appeals TRIBUNAL/ Board of review

Claimant

DOCKET # 5224-14

Claudia Dawson
3180 Water Brook Dr
Conyers, GA 30094

Employer

Southwest Airlines CO

I am appealing the result of unemployment insurance findings for the reasons listed below. I have being a dedicated and loyal employee for my company that I love dearly (Southwest Airlines). I was an employee for Air Tran Airways for 11 years. My career began on November 08, 2002. The two companies merged and I officially became an employee of Southwest Airlines in August of 2013 at which time I received my company badge. I was not an employee with attendance or any type of performance issues. The days I missed from work since employed with Southwest Airlines was due to a surgical procedure I underwent and my Manager Connie Marbury was made aware of the situation. In addition to Connie I also email the leaders to advise them of my surgery. I also have the documents to substantiate this claim. I also advised a couple of managers about the days I was going to be late.

I informed them that due to the shift change I had to find coverage for my young children however I had a nanny starting soon so it would not be a problem. I laid that foundation with my manager.

I was in a new position working the closing shift for the company for which no training was provided. I volunteered to work late a few days prior to the start of that new schedule in order to familiarize myself with the procedures. The new schedule ran about a month or two.

It was very frustrating trying to do a Job with insufficient training. I would often times ask my peers and the managers questions and they would tell me that they don't know because they didn't get enough training and that they were still learning all the material so everyone was just winging the procedures or they would give an answer and it was incorrect.

We got to the point where due to the fact that all the management team were prior Air Tran Airways employees and we are not acclimated or familiar with the Southwest procedures, our employees would make mockery of us because we pretty much didn't know how to do our Jobs.

I was very embarrassed to know that a lot of stuff we had to figure out on our own or just told to go and do it. On the closing shift, I was still learning to do the exception Log. This is the Log sheet for which the employer is stating I falsified.

Certificates of Service:

I hereby certify that I have this day served a copy of the within and foregoing Application for Discretionary Appeal upon all parties to this matter by depositing a true copy of the Same in the U.S. mail to

Superior Court of Fulton County
Honorable Ural D. Glanville

This 19 day of August 2014

By: Claudia
Dawson

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

KA

8/20/14

To: Claudia Dawson

Docket Number: Style: Claudia Dawson v. Mark Butler, Commissioner
of Department of Labor
ETA

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rules 1(c), 30 (e) and 31 (c)
16. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).

For Additional information, please go to the Court's website at: www.gaappeals.us

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 21, 2014

Mr. Robert J. Davis
GDC1000183793
Wheeler Correctional Facility
Post Office Box 466
Alamo, Georgia 30411

Dear Mr. Davis:

I am in receipt of your "copies" of the Notice of Appeal, Certificate of Service and transcripts. As you know, the Notice of Appeal is filed in the trial court, not the Court of Appeals. Until the direct appeal is forwarded to this Court for filing from the trial court, there is nothing to append the copies you have sent. Therefore, I am returning your documents to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

Case # A14DO453.

Dear Clerk,

please see that I am sending you
A copy of the notice of Appeal
with Certificate of Service
and Transcripts.

Sincerely, Thank you
"God Bless you"

Robert Jay Davis

110 Ro 5A "

RECEIVED IN OFFICE
2014 AUG 20 PM 3:12
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE SUPERIOR COURT of PEACH County
STATE OF GEORGIA

STATE of GEORGIA

CASE 10-CR-052

VS.

ROBERT Jay DAVIS

Appeal No. A14D0453

NOTICE of APPEAL

Comes now the defendant in the Above style Case gives this honorable Court of Superior Court of peach County of Georgia his notice of Appeal to Appeal his Case to Court of Appeals of the state of Georgia pursuant to O.C.G.A 5-6-37

Jurisdiction

Jurisdiction of this Appeal, Artical VI, Section V, paragraph III, jurisdiction of the Court of Appeals decision binding.

The Court of Appeals shall be a Court of Reviews and shall exercise appellate and Certiorari jurisdiction in All Cases not reserved to the Supreme Court or conferred on other Courts by Law,

The Clerk of said Court will please include the entire Record all documents, pleadings, motions, orders, transcripts of All proceeding dealing with this Case and transmitt them to Court of Appeals of Georgia

Respectfully Submitted this 12th DAY of August 2014

(by) Robert Jay DAVIS

GDC# 1000183793 "PRO SE"

wheeler Correctional facility, p.o. Box 4106,
Alamo, GA 30411.

Certificate of Service

I Do hereby Certify that I have placed the foregoing by placing it into the U.S. mail, postage paid, properly addressed too:

- 1.) Court of Appeals of Georgia, Suite 501,
47 Trinity Avenue, Atlanta, Georgia 30334
- 2.) Chief Judge Tilman E. SELF III, 36 Bibb County
Courthouse, 601 Mulberry St, Macon, GA 31201
- 3.) Clerk of Superior Court of peach County
p.o. Box 389, Fort Valley, GA 31030
- 4.) District Attorney office, p.o. Box 389 Fort Valley
GA 31030.

IN THE SUPERIOR COURT OF PEACH COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,
Plaintiff,

VS

ROBERT JAY DAVIS,
Defendant.

:
:
:
:

CASE NUMBER:
10-CR-052

MOTION TO VACATE ILLEGAL JUDGMENT

HELD BEFORE THE HONORABLE TILMAN E. SELF, III

JUNE 20, 2014

1:27 P.M.

PEACH COUNTY COURTHOUSE

FORT VALLEY, GEORGIA

APPEARANCES:

FOR THE STATE:

MICHAEL SMITH
Peach County District Attorney's Office
Fort Valley, Georgia

FOR THE DEFENDANT:

PRO SE

DIANE S. GREGG
Official Court Reporter
DGregg@maconbibb.us
601 Mulberry Street, Suite 301
Macon, Georgia 31211
Tel. 478.621.6693

COPY

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 21, 2014

To: Mr. Gilbert Freeman, Jr., 500 Whitby Drive, Douglasville, Georgia 30134

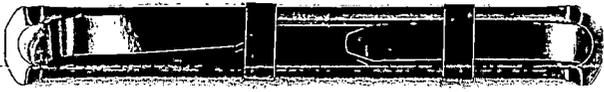
Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: A14A2071. Gilbert Freeman, Jr. v. Jody Todd

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the Supreme Court of Georgia is: 244 Washington Street, S.W. • Suite 572 in Atlanta, Georgia 30334.**
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

For Additional information, please go to the Court's website at: www.gaappeals.us



IN THE SUPREME COURT

STATE OF GEORGIA

GILBERT FREEMAN JR.,)

PETITIONER/ APPELLANT)

vs.)

JODY EBRIGHT TODD,)

RESPONDENT/ APPELLEE)

No. _____

**Georgia Court of Appeals
Case No. A14A0644**

PETITION FOR WRIT OF CERTIORARI

Petitioner:

Gilbert Freeman Jr.

Pro se

500 Whitby Drive
Douglasville GA 30134
(770) 485-6741

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 26, 2014

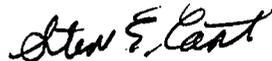
Mr. Robert A. Elsner
The Elsner Law Firm
6111 Peachtree-Dunwood Road, N.E.
Building G • Suite 100
Atlanta, Georgia 30328

RE: Mydreciah Barnwell, a Minor, by and through her Natural Parent and
Guardian, Jennifer Barnwell v. Shahin Miah, Ezy Shopper, Inc., et al,
Fulton County Superior Court
Civil Action File Number: 2013CV238054

Dear Mr. Elsner:

I am in receipt of your letter dated August 22, 2014. As stated in my letter to you dated June 3, 2014, the case has been received by Fulton County but the appeal has not been forwarded to this Court.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

Law Offices
THE ELSNER LAW FIRM

6111 Peachtree-Dunwoody Road, NE
Building G, Suite 100.
ATLANTA, GEORGIA 30328

Robert A. Elsner

Internet Address:
BobElsner@gmail.com

Telephone (678) 281-8750
Facsimile (678) 281-8755

August 22, 2014

Areas of Practice:
Civil Litigation • Trials
Personal injury • Wrongful
Death • Negligence
Family Law • DUI
Malpractice • Mediation
Dispute Resolution

Stephen E. Castlen, Clerk/Court Administrator
Court of Appeals of Georgia
47 Trinity Avenue S.W., Suite 501
Atlanta, GA 30334
Phone: (404) 656-3450

Re: MYDRECIAH BARNWELL, a Minor, by and through her Natural Parent and Guardian, JENNIFER BARNWELL vs. SHAHIN MIAH, EZY SHOPPER, INC., a/k/a E-Z SHOPPER, and KU BON SHIK, a/k/a BON SHIK KU
Fulton Superior Court, Civil Action, File No. 2013CV238054

Dear Mr. Castlen:

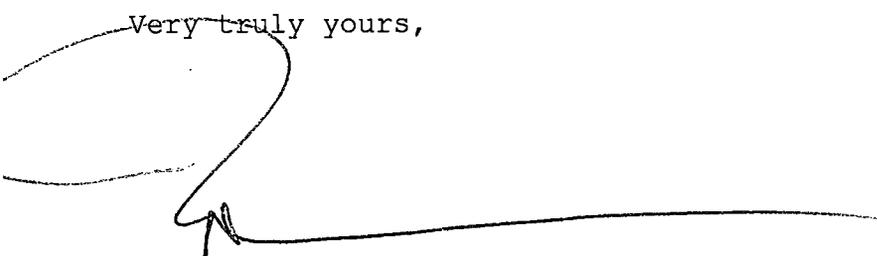
After your letter dated June 3, 2014 (copy attached), I had a call from someone in the Clerk's Office who said that the Notice of Appeal had been filed in the Clerk's Office, although I have not seen a copy of it, or any written indication that it was filed.

I am assuming that it has not been filed. Since your attached letter to me dated June 3, 2014, I have not received any Notice of the appeal being lodged in the Court of Appeals.

I would appreciate your advice.

With kind regards, I remain

Very truly yours,


Robert A. Elsner

RAE:bjm

cc: Ms. Jennifer Barwell
Ms. Cathleen Robinson, Clerk, Fulton Superior Court

Attachment

RECEIVED IN OFFICE
2014 AUG 25 PM 3:49
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Law Offices
THE ELSNER LAW FIRM

6111 Peachtree-Dunwoody Road, NE
Building G, Suite 100.
ATLANTA, GEORGIA 30328

Robert A. Elsner

Internet Address:
BobElsner@gmail.com

Telephone (678) 281-8750
Facsimile (678) 281-8755

August 22, 2014

Areas of Practice:
Civil Litigation • Trials
Personal injury • Wrongful
Death • Negligence
Family Law • DUI
Malpractice • Mediation
Dispute Resolution

Stephen E. Castlen, Clerk/Court Administrator
Court of Appeals of Georgia
47 Trinity Avenue S.W., Suite 501
Atlanta, GA 30334
Phone: (404) 656-3450

Re: MYDRECIAH BARNWELL, a Minor, by and through her Natural Parent and Guardian, JENNIFER BARNWELL vs. SHAHIN MIAH, EZY SHOPPER, INC., a/k/a E-Z SHOPPER, and KU BON SHIK, a/k/a BON SHIK KU
Fulton Superior Court, Civil Action, File No. 2013CV238054

Dear Mr. Castlen:

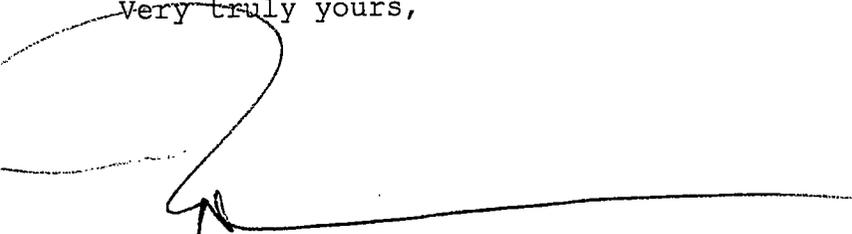
After your letter dated June 3, 2014 (copy attached), I had a call from someone in the Clerk's Office who said that the Notice of Appeal had been filed in the Clerk's Office, although I have not seen a copy of it, or any written indication that it was filed.

I am assuming that it has not been filed. Since your attached letter to me dated June 3, 2014, I have not received any Notice of the appeal being lodged in the Court of Appeals.

I would appreciate your advice.

With kind regards, I remain

Very truly yours,



Robert A. Elsner

RAE:bjm

cc: Ms. Jennifer Barwell
Ms. Cathleen Robinson, Clerk, Fulton Superior Court

Attachment

RECEIVED IN OFFICE
2014 AUG 25 PM 3:49
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

June 3, 2014

Mr. Robert A. Elsner
The Elsner Law Firm
6111 Peachtree-Dunwood Road, N.E.
Building G • Suite 100
Atlanta, Georgia 30328

RE: Mydreciah Barnwell, a Minor, by and through her Natural Parent and
Guardian, Jennifer Barnwell v. Shahin Miah, Ezy Shopper, Inc., et al,
Fulton County Superior Court
Civil Action File Number: 2013CV238054

Dear Mr. Elsner:

I am in receipt of your letter dated May 28, 2014 and have contacted Fulton County Superior Court to obtain an answer for you. The case has been received by Fulton County but the appeal has not been prepared to be forwarded to this Court.

I am, by copy of this letter, informing the Clerk of Fulton County Superior Court that inquiry has been made to this Court by you on the referenced appeal.

I am returning your documents to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

cc: Ms. Cathelene Robinson
Clerk , Fulton County Superior Court

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 21, 2014

To: Mr. Daniel E. Cobble, GDC7585172, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- Your documents are being returned for the reasons previously indicated.**

For Additional information, please go to the Court's website at: www.gaappeals.us

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 6, 2014

*assignment
a New case #
7-11-14*

To: Mr. Daniel E. Cobble, GDC7585172, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

*What I sent
you is a new
case
7-11-14*

- There is no case pending in the Court of Appeals of Georgia under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.



**CLERK OF SUPERIOR COURT
STATE COURT AND MAGISTRATE COURT**

Gwinnett County

P.O. Box 344
Lawrenceville, GA 30046-0344
Phone: 770.619.6720

Richard T. Alexander, Jr.
Clerk of Court

July 18, 2014

Daniel Eric Cobble
758572
Hancock State Prison
PO Box 339
Sparta Ga 31087

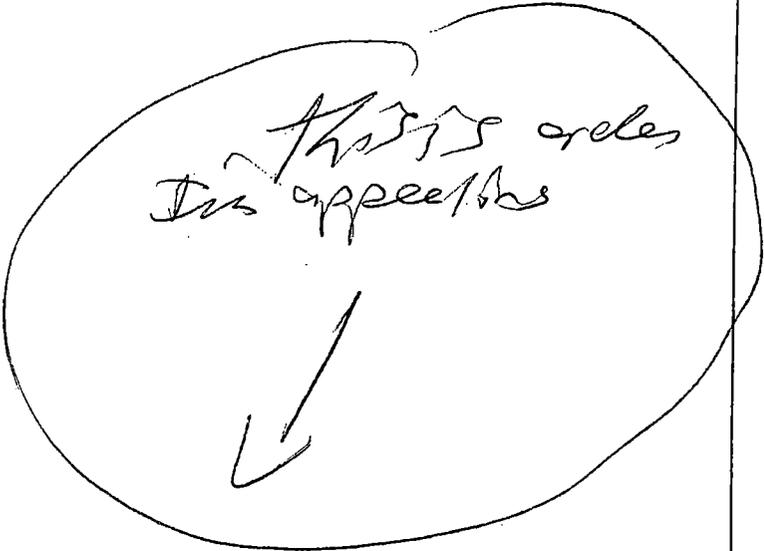
Dear Mr. Cobble:

This letter is in response to your request for issuance of 3 warrants. Unfortunately this is something that has to be done in person and on specific forms. Because of this you will have to wait until you are not incarcerated to proceed. You would have to come into the office, fill out the proper forms and pay the fee associated with applying as well.

Sincerely,

Clerks Office - Jail Division
Gwinnett County Magistrate Court
770-619-6720

*This is order
is applicable*



pehkur
Tudays 07-28-14 (p) Daniel Enzelle

pehkur enzes Gennet
Court clerk order denying
my legal right to file criminal lawsuit
appellate enzes a paper

notice of order for appeals

appeals
criminal
suits

deposed
Bangors' Commission
of Georgia Dept of corrections
et al

pehkur

Daniel Enzelle

In Re Georgia suits

criminal
suits

In the Georgia court of Appeals

~~_____~~

Indigency Affidavit

VERIFICATION

I, Daniel Eric Cobble, do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauperis status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

I am the plaintiff in this action and know the content of the above Request to Proceed in Forma Pauperis. I verify that the answers I have given are true of my own knowledge, except as to those matters that are stated in it on my information and belief, and as to those matters I believe them to be true. I have read the perjury statute set out above and am aware of the penalties for giving any false information on this form.

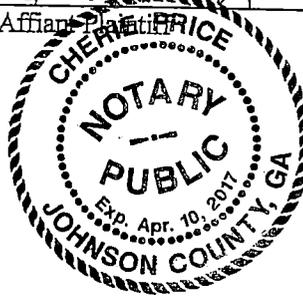
~~_____~~

Daniel Eric Cobble
Signature of Affiant Plaintiff

~~_____~~
Date 12-31-13
notarized

Sworn to and subscribed before me this
31 day of Dec, 2013.

Cheree Price
Notary Public or Other Person Authorized to Administer Oaths



Please note that under ~~Code Section 17-13-1~~ service of an affidavit in forma pauperis, including all attachments, shall be made upon the court and all named defendants. Failure by the prisoner to comply with this code section shall result in dismissal without prejudice of the prisoner's action.

I declare I'm indigent and request
to be allowed to file as a pauper
(but date mailed is 12-28-13)

~~_____~~

In the Georgia Court of Appeals

~~_____~~
~~_____~~

Daniel Eric Cobble

758572 Plaintiff

Inmate Number

Criminal case #

Brian Owens,

vs.

Nature of Action: direct appeal of
criminal arrest

Commissioner of Georgia,

warrant applications and

Department of Corrections et al

Defendant(s)

and papers

REQUEST TO PROCEED IN FORMA PAUPERIS

I, Daniel Eric Cobble, depose and say that I am the plaintiff in the above entitled case; that in support of my request to proceed without being required to prepay fees, costs, or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions and instructions below are true.

1. List any and all aliases by which you are known: No alias

2. Are you presently employed? Yes No
If the answer is "Yes," state the amount of your salary or wages per month, and give the name and address of your employer: N/A

If the answer is "No," state the date of last employment and the amount of the salary and wages per month which you received: over \$3,000 monthly for driving semi trailer truck across USA for may trucking I stopped driving Jan 29, 2001

3. Have you received within the past twelve months any money from any of the following sources?
Business, profession, or form of self-employment? Yes No
Pensions, annuities, or life insurance payments? Yes No
Rent payments, interest or dividends? Yes No

Gifts or inheritances? Yes No

Any other sources? Yes No

If the answer to any of the above is "Yes," describe each source of money and state the amount received from each source during the past twelve months:

N/A

4. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts): Yes No after cps started all

If the answer is "Yes," state the total value of the items owned: N/A

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes No of any kind

If the answer is "Yes," describe the property and state its approximate value:

N/A

6. List the persons who are dependant upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support:

\$50 month pay for
to aggravated stalking victim in person on 15th level work
ordered by Cobb Superior Judge S. Carter Ingram
in legitimation hearing day after 120 before my arrest on 3/20/13
by July 10, 2012 order # 011 0428 534

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

- a. A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question
- b. A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. O.G.C.A. § 16-10-70.

Daniel Eutelle
Signature of Plaintiff

7-28-14
Date

So you'll put me in prison for paying child support than anyone since I did not know where victim lived on July 15 2012

THIS FORM IS TO BE COMPLETED ONLY BY AN AUTHORIZED INDIVIDUAL AT THE INSTITUTION WHERE THE INMATE PLAINTIFF IS PRESENTLY INCARCERATED, OR HIS/HER DESIGNEE.

CERTIFICATION

738572

I hereby certify that the Plaintiff herein, COBBLE, DANIEL
has an average monthly balance for the last twelve (12) months of \$ 0.00 on account at
the HANCOCK STATE PRISON institution where confined. (If not confined for a full
twelve (12) months, specify the number of months confined. Then compute the average monthly balance
on that number of months.)

I further certify that Plaintiff likewise has the following securities according to the records of said
institution: NONE
HANCOCK STATE PRISON

[Signature]
Authorized Officer of Institution

7/17/14
Date

NOTE: Please attach a copy of the prisoner's inmate account of the last 12 months, or the period of incarceration (whichever is less).

HANCOCK STATE PRISON
JUL 17 2014
BUSINESS OFFICE

Account Statement

COBBLE, DANIEL

Printed By: WELLS, KATHERINE

GDC ID: 758572

Spendable Amount	Reserved Amount	Receipts On Hold	Funds Balance	Obligations/Court Charges
\$0.00	\$10.00	\$0.00	\$10.00	\$5,259.33

RECEIPTS

Receipt Date	Transaction ID	Receipt Type	Receipt Details	Receipt Amount
04/22/2010	7480077	MAIL ROOM RECEIPT	D RAY JAMES CHECK - 26388	\$10.00

WITHDRAWALS

Date	Location Paid	Withdrawal Type	Payable To	Detail	Amount	Check No
------	---------------	-----------------	------------	--------	--------	----------

OBLIGATIONS

Paid Status: P = Partially paid; Y = Paid in full; R = Reversed; W = Written off

Date	Location Incurred	Obligation Type	Payable To	Obligation Detail	Amount	Paid
07/15/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17640685. INDIGENT POSTAGE 7/15/2014	\$2.66	
07/15/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17640586. INDIGENT POSTAGE 7/15/2014	\$1.68	
07/14/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17638009. 07/08/2014 INDG LGL	\$0.18	
07/09/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17631102. INDIGENT POSTAGE 7/9/2014	\$0.91	
07/07/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17623391. INDIGENT POSTAGE 7/7/2014	\$0.98	
07/07/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17623390. INDIGENT POSTAGE 7/7/2014	\$1.89	
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17615071. INDIGENT POSTAGE 7/1/2014	\$5.39	
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17614841. INDIGENT POSTAGE 7/1/2014	\$1.40	
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN - Reversal	HANCOCK STATE PRISON	RECORD ID = 17614532. INDIGENT POSTAGE 7/1/2014	(\$1.38)	R
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17614549. INDIGENT POSTAGE 7/1/2014	\$1.89	
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17614532. INDIGENT POSTAGE 7/1/2014	\$1.38	R
07/01/2014	CENTRAL ACCT-OFFENDER TRUST	MONTHLY PROCESSING FEE	GEORGIA DEPARTMENT OF CORRECTIONS	Monthly Processing Fee for 07/2014	\$1.00	
06/26/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17507336. INDIGENT SUPPLIES 6/25/2014	\$0.18	
06/26/2014	CENTRAL ACCT-OFFENDER TRUST	INDIGENT LOAN	HANCOCK STATE PRISON	RECORD ID = 17507334. INDIGENT SUPPLIES 6/25/2014	\$1.00	

Account Statement

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

August 25, 2014

To: Mr. Kenny Beamon, GDC1056968, Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

Docket Number: **Style:** **Kenneth Beamon v. The State**

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. Other:

For Additional information, please go to the Court's website at: www.gaappeals.us



SUPREME COURT OF GEORGIA

Case No. S14D1709

Atlanta, August 7, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

KENNETH BEAMON v. STATE OF GEORGIA

From the Superior Court of Coffee County.

Applicant seeks to appeal the order denying filing of his lawsuit in which he sought to change his name. As he states no basis for this Court's subject matter jurisdiction and none appears from the record, see Ga. Const. of 1983, Art. VI, Sec. VI, Paras. II and III, the application hereby is transferred to the Court of Appeals.

All the Justices concur.

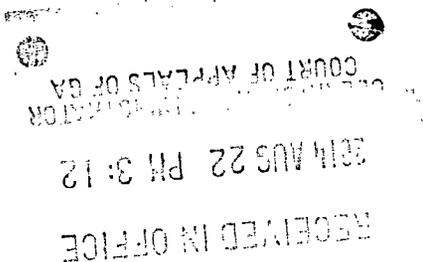
SUPREME COURT OF THE STATE OF GEORGIA

Clerk 's Office, Atlanta

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

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

Suzanne C. Fulton, Chief Deputy Clerk



Supreme Court of Georgia Case Transfer Form

Date: 08/22/2014

Case Number: S14D1709

Date of Transfer: 08/07/2014

Briefs/Motions Filed Before Transfer:

<u>Filing Date</u>	<u>Description</u>	<u>Attached?</u>
07/18/2014	Discretionary Application	<input checked="" type="checkbox"/>
08/11/2014	Application-Brief in Support	<input checked="" type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

Briefs/Motions Filed After Transfer:

<u>Filing Date</u>	<u>Description</u>	<u>Attached?</u>
		<input type="checkbox"/>
		<input type="checkbox"/>

Costs:

Cost Paid Date:

Payer:

Payment Type: Credit Card Check Cash

Transaction Number (if applicable):

Receipt Number:

Costs Not Paid: Indigent

RECEIVED IN OFFICE
2014 AUG 22 PM 3:11
CLERK OF SUPERIOR COURT
COURT OF APPEALS OF GA

APPLICATION FOR
DISCRETIONARY APPEAL

D4-030

Case No. S14D1709

D4-030

KENNETH BEAMON v. STATE OF GEORGIA

Trial Court Order: June 27, 2014

Filed: July 18, 2014

Response by: July 28, 2014

Final order due by: August 18, 2014

Grant: _____

Deny: _____

Dismiss: _____

Transfer: _____

Other: _____

RECEIVED BY MAIL
AND FILED:

JUL 18 2014

Andrew Lebeck

SUPREME COURT OF GEORGIA

RECEIVED IN OFFICE
2014 AUG 22 PM 3:12
COURT OF APPEALS OF GA
OR

Kenny Beamon, #1056968

P.O. Box 650

Nicholls, GA 31554

D4-030

Aug 5, 2014

RE: RESPONSE to Application For Appeal

Case No. S14D1709

Clerk, Supreme Court of Georgia
244 Washington Street, Rm. 572
Atlanta, GA 30334

RECEIVED IN OFFICE
2014 AUG 22 PM 3:13
CLERK OF APPEALS OF GA

According to D.C.G.A. §19-12-1 the Petition For Name Change must be filed in the county wherein Movant resides; the Superior Court of Coffee County erred in alleging no jurisdiction. According to D.C.G.A. §19-15-2 (A)(1) if a litigant is unable to pay any deposit, fee, or other court costs, he has only to file a valid affidavit of indigency to be relieved; however the court deprived Appellant of this right.

According to Hakim v. Hicks, 223 F.3d 1244. Appellant is entitled to this name change which symbolize a spiritual change in appellant. Also see U.S.C.A. Const Amends. 1 and 14.

Herein, Appellant prays this Honorable Supreme Court GRANT the subsequent Relief and any further Relief deemed just and appropriate.

Respectfully submitted,
Kenny Beamon

RECEIVED BY MAIL
AND FILED:

AUG 11 2014

Quinton R. Rube
SUPREME COURT OF GEORGIA

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 6, 2014

Mr. Cedric D. Arrington
GDC1121182
Coastal State Prison
Post Office Box 7150
Garden City, Georgia 31418

Dear Mr. Arrington:

There is no current case pending in the Court of Appeals of Georgia under your name.

I am returning your Notice of Appeal to you. The Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. Also, you do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.

The Notice of Appeal must include a proper Certificate of Service and the opposing counsel must actually be served with a copy of your filing.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosure

STATE OF GEORGIA

Cedric D. Allington
Plaintiffs
1121182

v.

State of Georgia
Defendants

Civil action
File no. 2008-C-39708-1

Notice of Appeal

Notice is hereby given that Cedric Allington and _____
defendants above-named, hereby appeal to the Court of Appeals (Court
of Appeals or Supreme Court) from the Denied motion for out of time appeal (de-
scribe order or judgment) entered in this action on (date), 7-24-2014.

Motion for new trial (or motion for judgment n.o.v., etc.) was filed and overruled
(or granted, etc.) on (date), February 13, 2014

The clerk will please omit the following from the record on appeal:

1. _____
2. _____
3. _____

Transcript of evidence and proceedings will/will not to be filed for inclusion in
record on appeal.

This court, rather than the (Court of Appeals or Supreme Court) has jurisdiction
of this case on appeal for reason that _____

Dated: 7-28-2014

Cedric Allington
Appellant, Pro Se

Box 7150
Address
Garden City GA
31418

This is a copy of a notice filed in Houston. Sometimes they will claim not to file motions.

IN THE SUPERIOR COURT OF HOUSTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

CEDRIC D. ARRINGTON

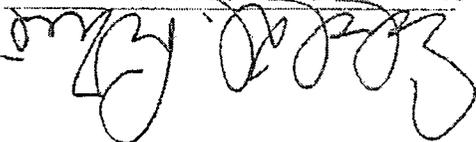
Defendant.

Case Number:
2008-C-39708-L

ORDER

On February 13, 2014, Defendant in the above-captioned case filed yet another Motion for Out of Time Appeal seeking review of his negotiated plea and sentence from January, 2009, based on the alleged ineffective assistance of counsel. Said Motion is identical to Defendant's last Motion for Out of Time Appeal filed in this Court on August 30, 2013. The 2013 Motion was denied by Order of this Court on September 6, 2013, and an appeal of said Order was dismissed by the Court of Appeals on December 10, 2013. Defendant's Motion for Out of Time Appeal remains an improper method—and this Court remains an improper forum—for seeking redress at this time. Accordingly Defendant's Motion for Out of Time Appeal, filed on February 13, 2014, is hereby DENIED.

SO ORDERED AND DECREED, this the 23rd day of July, 2014.



Honorable Edward D. Lukemire
Judge of the Superior Court
Houston Judicial Circuit

FILED IN OFFICE SUPERIOR COURT OF
HOUSTON COUNTY

JUL 24 2014

Deputy Clerk

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 25, 2014

To: Mr. William R. Blevins, GDC579636 Y2B, Hays State Prison, Post Office Box 668,
Trion, Georgia 30753

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____
divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- You must file the "Motion and Brief to Modify Sentence" in the trial court.**

For Additional information, please go to the Court's website at: www.gaappeals.us

Georgia Court of Appeals
IN THE SUPERIOR COURT OF _____ COUNTY

STATE OF _____

William R. Blevins GDC
Defendant, pro se 579636

vs.

Criminal Action No: CR95-1781

state
Plaintiff

MOTION TO MODIFY SENTENCE

NOW COMES, William R. Blevins, defendant in the above style action and moves this Honorable Court to grant her/him Motion to Modify Sentence. As just cause for the instant action, defendant shows and states as follows:

1.

Petitioner is illegally incarcerated under a void sentence,

2.

Petitioner's sentence was excessively harsh.

3.

4.

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COURT OF APPEALS OF GA.

5.

6.

7.

8.

Wherefore, defendant respectfully requests that this request for modification of his/her sentence is sustained and the same is modified.

Respectfully submitted this 18 day of August 2014.

William R. Blevins
Defendant Pro Se

In the Georgia Court of Appeals

William A. Blevin, prose

GDC 579636

v
State

Case No.

CA95-1781

BRIEF IN SUPPORT of SENTENCE Modification

Now comes, William R. Blevins, defendant in the above style action and moves this Honorable Court to grant him Motion to Modify Sentence.

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COURT OF APPEALS OF GA

Statement of Jurisdiction

This court has jurisdiction under OCGA 9-17-60 and OCGA 17-9-4.

Table of Authorities

- Sixth Amendment, US Constitution
- Eighth Amendment, US Constitution
- Fourteenth Amendment, US Constitution
- OCGA 9-17-60
- OCGA 17-9-4
- Harwell v Michigan 501 US 957, 113 S.Ct. 2680 (1991)
- Kaiser v State, 285 Ga App 63 (2007)
- Davis v State, 197 Ga App 746
- Furburk v State, 276 Ga 554
- Shatkin v State, 73 Ga App 136
- OCGA 17-10-16(a)
- OCGA 17-10-7(c)
- Humphrey v Wilson, 652 SE2d 501 (2007)
- Ortiz v State, 266 Ga 753, 753 (1996)
- Isom v State, 261 Ga 596, 597 (1991)
- OCGA 16-6-4(b)

Statement of the Proceedings

Blivins was sentenced in 1996 and a Motion for New Trial Jan. 2 1997. That Motion was not denied until Oct 3, 2003. The Court vacated the sentence in Nov. 2004 and no action was taken.

his void sentence in any court.
 OCGA 17-9-4 permits Blevins to attack
 to attack his void sentence.
 within which Blevins would have had
 sentence there is no time limitation
 OCGA 9-17-60 explains that as a void
 remains as a vacated sentence.
 took no action therefore the sentence
 in 2004. On remand the lower court
 This court vacated Defendant's sentence
 misinformation.

Defendant raises the Sixth, Eighth, and
 Fourteenth Amendment issues of void sentence,
 cruel and unusual punishment, and attorney

Argument

- 1) - Petitioner is illegally incarcerated under a void sentence.
- 2) - Petitioner's sentence was excessively harsh.

Overview

Upon imposing sentence the trial judge remarked that "he had no alternative" but to sentence Blevins to life without possibility of parole. On review, however, this court determined that Blevins' sentence was void, vacated it, and remanded it. On remand the trial judge stated that she saw nothing wrong with the sentence and took no action.

Something was wrong with the sentence, imposing life without possibility of parole in the belief that there is no alternative available when in fact the spectrum from mandatory minimum to mandatory maximum was available, was wrong. Not acting on remand does not cure the error. This court remanded this case to a lower court which took no action. Blevins' sentence therefore remains void.

Kaiser v State 385 Ga App 63 (2007) is one example of a void sentence. The court had changed the details of Kaiser's sentence after the fact. Kaiser was therefore "able to withdraw" because there had been no announcement of a legal sentence." Because alternatives

to his sentence were not explored,
Blavin hereby declares that there has
been no pronouncement of a legal
sentence in his case. His sentence
was pronounced under the erroneous
belief that there was no alternative
to the sentence imposed.

Funderburk v State 276 Ga 554 is
another example of an improperly applied
life sentence without possibility of
parole. It was reversed.

OCGA 9-17-60 explains that there is
no time limitation for attacking a void
sentence. Davis v State 197 Ga App 76 said
that the right to attack a nullity is not
waived by failure to attack sooner.
OCGA 17-9-4 explains that the attack
[on a void sentence] may occur in any
court.

Shotkin v State 73 Ga App 136 tells us
that if void, no hearing or order is
required, sentence may be disregarded.
Therefore this court does have the
authority to adjust this sentence.

The sentence was excessively harsh.

Blevins has shown himself to be a trusted and exemplary inmate. Because he contests only the sentence and not the judgement he now attempts to correct the sentence with this Motion to Modify sentence.

Defendant simply believes that life without possibility of parole is an excessively harsh sentence. By comparative example, he could not have received this sentence under these circumstances if the charge had been murder. He believes furthermore that a lesser sentence would more appropriately meet the demands of society and fall within the bounds of similarly situated prisoners.

Blevins' sentence was not life without possibility of parole; it was a life sentence from which OCGA 17-10-7(c) removed the possibility of parole. It seems that upon sentencing the trial judge wanted to impose a severe sentence (life) but due to the recidivist statute he believed he "had no alternative"

but to impose a penalty which effectively translated into life without possibility of parole.

Several cases show that harsh sentencing can be reviewed in relation to the Eighth Amendment guarantee against cruel and unusual punishment.

- Humphrey v Wilson 652 SE2d 501 (2007)
- Ortiz v State 266 Ga 752 (1996)
- Isom v State 267 Ga 546 (1991)

In Harmelin v Michigan 111 S.Ct. 2680 (1991) Justice Kennedy said that to determine a disproportionate sentence a court must first examine the "gravity of the offense compared to the harshness of the penalty..." Blevins' charge, although very grave, does not really seem to reach the benchmark Kennedy set. Kennedy goes on to say that the court must... "determine whether the sentence furthers a legitimate penological goal considering the offense and the offender in question. Again, all these years in prison have shown Blevins to be a trusted and exemplary

imate,

When the sentencing judge said he "had no alternative" one such alternative would have been to

sentence Blevins to a severer number of years, which would be harsh but would be short of that death fall sentence of life without possibility of parole. Life without possibility of parole has been called "the other death penalty" and like a death

sentence seems only appropriate for offenders who are unquestionably far beyond any hope of redemption.

Justice Kennedy said to consider the offender in question. It can be fairly stated that Blevins exhibits many factors to his credit in this respect.

A number of years ago inmate Blevins became profoundly religious, and has grown knowledgeable and active in his faith. He serves as a mentor and teacher in the Department of Correction's officially sanctioned Faith and Character base program. He has demonstrated unwavering

compliance to rules and regulations,
His faith, his demeanor, and his
conduct suggest the low probability
that he would ever reoffend —

especially under the supervision
of the sex offender registration
program. At this point in time, the
only obvious penological goal of
keeping him locked away forever would
be a sort of "mache" statement

from society that there can be no
hope, no salvation, no redemption in
this life. That would be an overly
simplified answer to the problem,
and would not further a legitimate

penological goal. Blevins can, and
probably should be reintegrated
into society.

OCGA 16-6-4 (b) clearly says
Blevins' sentence could be a life
sentence, but it doesn't have to

be a life sentence.

The death penalty was not an issue
in this case so 17-10-16(a) would not
have allowed life without possibility
of parole. The sentencing judge

seemed to be saying that only wanted to impose a life sentence but unfortunately that would necessarily become life without the possibility of parole due to "17-10-7(c) he had no alternative." One possible alternative (available to the trial judge back then and available to this court now) is that of a severe number of years in place of a life sentence. Fourteen years was the minimum time for parole consideration on a life sentence back then. Humphrey v Wilson supra says "Persons who commit crimes are to be convicted and sentenced under the laws that existed at the time the crimes were committed." Blevins suggests that a 20 or 25 year sentence could achieve a similar effect to what the trial judge seemed to contemplate before determining that he had no alternative but to impose a life sentence.

William R. Blevins
GDC 579636 Y2B
Hays State Prison
Box 668
Tion, GA 30753

William R. Blevins

Respectfully submitted
this 18 day of August 2014.

Defendant seeks the mercy of
the Court. He believes he is
illegally confined without procurement
of a legal sentence and requests
humbly that his sentence be
modified.

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the within and forgoing document(s) upon the person(s) listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to ensure that it reaches its destination.

This 18 day of August, 2014.

Respectfully submitted,

William R. Blevins

Person(s) served:

-District Attorney
40 133 Montgomery St.
PO BOX 10227
Savannah, GA
31412-0427



Court of Appeals of Georgia

August 25, 2014

TO: Ms. Shelby S. Beringer, 2785 Loring Road, Kennesaw, Georgia 30152

RE: **A13A2077. Marybeth S. Beringer v. Jimmy R. Emory**

CHECK RETURN

- Your check number _____ in the amount of _____ written on the account of your firm for the filing fee in _____ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by _____.

CASE STATUS - DISPOSED

- The above appeal was disposed by opinion on March 14, 2014. (Copies are \$1.50 per page in this Court. The opinion contains 9 pages, a total cost of \$13.50.) The Court of Appeals reversed and remanded the above appeal with direction. The remittitur issued on April 1, 2014, divesting this Court of any further jurisdiction of the case. The case is therefore, final.**

ATTORNEY REPRESENTATION

- The above appeal has been disposed. You cannot file pleadings on behalf of Marybeth S. Beringer in this Court. Her attorney, Quoc Van or Ms. Marybeth Beringer, pro se, are listed on the Court's docket.**

CASE STATUS - PENDING

- The above referenced appeal is the only pending appeal in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

IN THE COURT OF APPEALS OF GEORGIA

MARYBETH S. BERINGER,)
Appellant,)
VS.)
JIMMY R. EMORY,)
Appellee.)

Case No.: A13A2077

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COURT OF APPEALS OF GA

NOTICE OF OBTAINING TRANSCRIPT

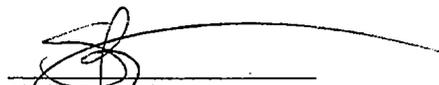
COMES NOW, the Appellant to notify the court that the Appellant obtained the October 10, 2012, transcript that was at issue in the above styled case, from the court reporter on or about ~~August~~ July 29 2014


Shelby S. Beringer
2785 Loring Road,
Kennesaw, GA 30152

CERTIFICATE OF SERVICE

I certify that I have this day served Stephen M. Worrall, attorney for Appellee, with a copy of this foregoing document by mailing a copy first class mail postage prepaid to him at: 109 Anderson Street, S.W., Suite 100, Marietta, GA 30060.

This the 19 day August 2014.


Shelby S. Beringer
2785 Loring Road,
Kennesaw, GA 30152

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 25, 2014

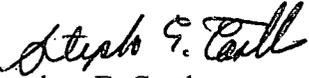
Mr. Kenneth Clark
GDC653504 J-2
Wilcox State Prison
Post Office Box 397
Abbeville, Georgia 31001

Dear Mr. Clark:

I am in receipt of the "Notice of Appeal to Void Contract of Sentence." The Notice of Appeal is filed with the clerk at the trial court, not the Court of Appeals. After the clerk has prepared the record as designated by the Notice of Appeal and submitted it to this Court for docketing, this Court will send out a Docketing Notice with briefing schedule and other important information.

I am returning your documents to you in case you need them for future proceedings.

Sincerely,


Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

IN THE COURT OF APPEALS

FOR THE STATE OF GEORGIA

Kenneth Clark, I, me, my, myself,

Case No: 98-CR-000319

The Living Soul, A Private Person,

Civil ACTION NO.:

-VS-

EXTRAORDINARY MOTION FOR A NEW

THE STATE OF GEORGIA: and

Proceeding under A Manifest

THE CORPORATION OF THE SUPERIOR

INJUSTICE, AND ACTUAL INNOCENCE.

COUNT OF MERIWETHER COUNTY,

AND THE IMPEACHMENT OF JUDGE

X A, Quillian, Baldwin, Jr.

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CLERK OF SUPERIOR COURT
MERIWETHER COUNTY, GA

NOTICE OF APPEAL, TO VOID CONTRAST OF SENTENCE:

Now Come Kenneth Clark, A secured party, Sovereign, I, me, my, myself, A private person, The living soul; A layman of Law; A prisoner For The

First 16 yrs, Held AT, And by, THE GEORGIA, Department of Correction;

To Plead INN, And To; This Honorable Court of Appeal; under Indigence; for I do not Earn Money;

I Plead To This Honorable Court from The Provision at the First, Fifth, and Fourteenth Amendment of The UNITED STATE Constitution;

To Be Allowed Access To This Honorable Court To Redress of Grievance, To Correct the Manifest Injustice; created by officers of The Court;

OF The SUPERIOR COURT OF MERIWETHER COUNTY, STATE OF GEORGIA;

I Plead To This Honorable Court, To Provide me THE Fundamentals

Fairness of The Proceeding, Denied to me, by The SUPERIOR COURT OF

MERIWETHER COUNTY Corporation;

Pleading To This Honorable Court of appeal, To Grant ME THE Equal

Protection OF Law IN which I was Deprived of, By The Government Agents

OF The SUPERIOR COURT OF MERIWETHER COUNTY; when Diverted me from

Answering THE Claim IN which I was present IN THEIR COURT -

to answer to on March 16, 1999; in the case No. 98-CR-000319.

I Plead to this Honorable Court to uphold it with under

THE UNITED STATES OF AMERICA AND TO WIT, THE UNITED STATES CONSTITUTION.

IN ORDER FOR ME TO SHOW ACTUAL INNOCENCE OF A UNLAWFUL ACT;

AS WELL AS TO SHOW TREASON BY THE CORPORATION OF THE SUPERIOR

COURT OF MERTWETHER COUNTY, TO WIT, OFFICERS OF THE COURT,

ATTORNEYS, GOVERNMENT AGENTS, THE AMERICAN BAR ASSOCIATION,

TO WIT FRAUD; UNLAWFUL ACT; FRAUDULENT ACTS TO CONTRACT

IN COMMERCE; COMMERCIAL FRAUD; UNLAWFUL ACT;

DECEPTION TO CAUSE THE ACT OF FORGERY, BY SIGNATURE, BY FRAUD,

A CONTRACT THAT I WAS INDUCED IN TO BY OFFICERS OF THE COURT

IN WHICH I PLEAD TO YOU THIS HONORABLE COURT OF APPEAL TO

VOID; -

TRUTH AFFIDAVIT OF CASE HISTORY, AND FACTS. RULE (16)

IN COMMERCE EVERY THING MUST BE STATED IN TRUTH; I, KENNETH CLARK,

A SOVEREIGN, A PRIVATE PERSON, A LIVING SOUL, A CREDITOR, A SECURE PARTY, AND NOT

A STATUTORY PERSON UPON THE LAND, UNITED STATE OF AMERICA BY BIRTH,

DO HEREBY SOLEMNLY SAY AND STATE: (1) SECURE PARTY IS COMPETENT FOR STATING

THE FACTS AND MATTER'S SET FORTH HERE WITH IN; (2) SECURE PARTY HAS PERSONAL

KNOWLEDGE ABOUT THE FACTS STATED HERE IN; (3) EVERY THING STATED IN THIS

TRUTH AFFIDAVIT IS THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, AND ALL STATED

IS TRUE, CORRECT, COMPLETE, AND NOT MISLEADING, NO THIRD PARTY ALLOWED.

PLAIN STATEMENTS ABOUT THE FACTS (A), FOR RESOLVING A MATTER IT MUST BE

EXPRESSED, (B), IN COMMERCE TRUTH IS SOVEREIGN, (C) A UNREBUTTED TRUTH AFFIDAVIT

BECOME JUDGEMENT IN COMMERCE, (D) A TRUTH AFFIDAVIT UNDER COMMERCE LAW CAN

ONLY BE SET ASIDE BY A REBUTTAL ABOUT THE TRUTH AFFIDAVIT, BY PAYMENT,

BY RESOLUTION, BY A JURY ACCORDING BY THE RULE FOR COMMON LAW.

A Lawful Contract has ; (1) OFFER , (2) Consideration , (3) Acceptance by all Parties . for the Contract , and (4) The Signature by all parties involved with the Contract , only the Parties signing the Contract can participate in the discussion of the Contract , Full disclosure about the Contract is Imperative . °

ON OCT, 7 or 8 I was Arbitrarily Arrested and Detain by the INCORPORATE MERIWETHER COUNTY Sheriff Department , From Claims arising From a living soul , Against me , the living soul .

ON Nov, 16, 1998 I was Informed while held at The Dan Branch Detention Center , MERIWETHER COUNTY , That I WAS INDICTED , A Indictment was Passed down upon me by a Grand Jury , " To wit " by OFFICIAL OF THE COURT THE ACT , OF Incitement OF Discrimination And Fraud , To wit , THE District ATTORNEY For THE STATE OF GEORGIA ; was Allowed to Call in To THE COURT Private Person , Creditor's , National , in To THE SUPERIOR COURT OF MERIWETHER COUNTY And Fraudulent Introduced CODES AND STATUTE'S Violation To them AS Law , " UNLAWFUL ACT'S " From A Claim Against me from A living soul ; Inciteing them To Discriminate against me ; while I was Detain and UNaware of the ACT , Now was I represented or Intelligently able to protect myself under the Subject and matter , or understanding of The Term Jurisdictional , or Common Law , or Admiralty at the time " Violation of Article (7) . Universal Declaration of Human Rights " .

GIVEN I obtain A ATTORNEY AT Law , Joseph A. Maccione Bar # 462925 To represent me under the Subject and Matter , ° AT which time I did not , " under The British Accredited Regency Act of 1939 , Placed in to the Constitution For the STATES For THE UNITED STATE That a ATTORNEY , Lawyer , Counselor , Esquire Could only represent an Corpor-Fiction or Corporation " ° Under stand

NOR have any knowledge of; I just did not know that a ATTORNEY could only represent me as a Corpor-Fiction.

ON March 16, 1999, "ATTORNEY Maccione presented me to the Bench AS a Corpor-Fiction; when The Docket was called, Case No# 98-CR-000319 ATTORNEY Maccione brought me before The Bench, failing to Challenge Subject Matter Jurisdiction; Case No# 98-CR-000319 STATE OF GEORGIA -VS- KENNETH CLARK; "A Claim to be heard in the Jurisdiction of Common Law; Allowed to be diverted from its course to be heard by a OFFICER of the COURT; A OFFICER who had over 20 yrs of experience in such Subject and matter; A OFFICER who had already committed the ACT OF Fraud, by representation of A living soul; by Contracting with me; A OFFICER who knew or just did not care allowed me to commit The ACT OF Fraud; by accepting and owning to the name of The Docket; or Manifest called by Judge Baldwin Jr, "in Case No# 98-CR-000319, "A Name that was NOT MYSELF, ME, I.

ATTORNEY Maccione Allowed me, Compelled me To commit the ACT OF Fraud, Compelled me out of my Ignorance of The Facts; That the Name called was a Corporation Name, Fifth Amendment violation, U.S. Const, Amendment Judge Baldwin Allowed this ACT to go uncorrected, denying me The Fundamental fairness of the proceeding; when he never asked me did I understand what a living soul is, NOR what a Corporation was, or Corpor-Fiction; Compelling me to accept a association I did not belong to or what I was NOT a member of, diverting me from the Matter and Jurisdiction of The Subject and Matter I was present in court to answer to March 16, 1999, violating my Rights under Article (20, AT 2) and Article (6) Article (8) and Article (2) UNIVERSAL Declaration of Human Rights, Violation of my FIFTH (V) Amendment Right UNITED STATE Constitution Amendment

I was diverted to the Jurisdiction of Admiralty because of the Discrimination by Educated men's, "to my Ignorancy," of such matters of Jurisdiction and to what is Common Law and what is Admiralty, what is Corpor-Fretio what is Corporation, what is a living soul; or what is the true why this Court should be handling this Matter, I just did not understand Nor did I understand that The Judge and Attorney was member's of The American BAR Association.

Given, "unknowingly to me my claim's was now charges and in the Jurisdiction of Admiralty;

By saying the claim's against me was now moved to the Jurisdiction of Admiralty;

Given, "Now The STATE took Jurisdiction over The case, "Claims now became charges; I, A living soul, A private person, NOT subjected in any way to be tried under the Foreign Jurisdiction Flag; was Deceived in To The Jurisdiction of Admiralty;

I was Deceived To Fraud myself to the Bench.

I was Fraudulently Presented To The Bench;

I was out of Ignorancy, Lack of understanding, Compelled, Swayed, Influenced, by Imperceptible, Intangible means, To ENTER in To the wrong Jurisdiction of Court;

Tried UNDER UNIVERSAL Commercial CODE, U.C.C., "with out my understanding;

To wit; THE STATE Lack Subject Matter Jurisdiction, to try the case, To wit; THE ASSISTANT DISTRICT ATTORNEY for the Corporation perjured Testimony to the Bench, "whom failed to protect me, Denying me the Equal Protection of Law; To wit Perjured Testimony" UNLAWFUL ACT'S," The STATE ATTORNEY Rudjard Hayes Perjured CODE'S, AND STATUTE'S, AS LAW,

Under The Administration Procedure ACT of 1946; (Color of Law)
Rules, Regulation, Procedure's, CODES, and STATUTES, are NOT Law;
Law's are pass by The Legislature; Bills are introduced in to the legislature
and The house hears the Bill - then VOTE's for it ENACTMENT, The STATE then
goes through the same procedure, and upon approval for both bodies,
it is signed and sent for the Governor's, signature, when the Governor
sign the Bill it become Law; IF The Bill is Found in violation For the
Constitution, or the right for the people, it is Struck down, and does not
become Law, The legislature can not pass a Bill that violate the people
for, LIFE, liberty, Property, Happiness, Pursuit of;
Towns, Cities, Counties, and STATES, can Not Pass Law, only Rules,
Regulation, CODES, Procedure's, and STATUTES,
GIVEN; The STATE ATTORNEY Rudjard Haye's knowingly misrepresented
what is Law; STATING CODES and STATUTES to be UNLAWFUL ACTS,
UNLAWFUL said The STATE OF GEORGIA,
CODES and STATUTES That do not have The ENACTMENT Clause of Law upon
Their face By The UNITED STATE Legislature;
Judge Baldwin allowed This ACT OF Fraud to go uncorrected; Failing to
Provide me The Equal protection of Law; From the ACT OF Treason by
The STATE; Fraud,
allowing me to unknowingly cede my Rights UNIntelligently, unknowingly
involuntarily; To Be Bind in To A CONTRACT; A UNLAWFUL CONTRACT,
A contract by Deceit, A contract that I did not know was a contract,
A contract that is in violation of my FIFTH V amendment Rights
OF The UNITED STATE Constitution, Not only was I Compelled to enter a
Plea by deceptive ACTS; Compelled to be a witness against myself;
But I was Deceived as to what was Law;

It is THAT, 'NO STATE shall make or ENFORCE any law, which shall abridge the Privilege or Immunities of CITIZEN OF THE UNITED STATES';
Nor shall any STATE deprive any Person of LIFE, liberty, or Property with OUT Due Process OF Law, Nor deny any Person WITH IN it Jurisdiction the Equal Protection OF The Law;

By Judge Baldwin allowing THE STATE ATTORNEY PERJURED Testimony to Go uncorrected, And allowing me to be Fraudulent Presented by Attorney Maccione to The Bench AS A Corpor - Fiction;

Judge Baldwin, Jr., ATTORNEY Maccione, ATTORNEY for THE STATE Rudyard Hayes, Deceived me to Commit the ACT OF Forgery by Signature;

It is THAT, 'I unknowingly Sign a Contract OF Sentence';

A Contract Introduce Fraudulently, 'to wit,' Law.

A Contract TO wit A Name That was NOT My Name, A Contract Stated to be me, but in FACT was NOT, A Contract under A Corporation Name The All Capital letter, with out my understanding.

These OFFICIAL knowingly or mistakenly Contracted with me The living soul, Sign Contract with me, The Government Sign a Contract with me a National, a living soul, a Private Party, A Contract that is under Fraud, Because I did NOT KNOW, and The Fail to make me aware or give me clear understanding.

This Contract also violate my Rights under Article 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 20, ~~21~~ 2 under THE UNIVERSAL Declaration OF Human Rights.

I am NOR was I in Commerce, NOR Should I have been Subject under Commerce Law. And CONTRACT is void, because of OFFICER'S OF THE COURT have Signed It with me The living soul which void The Contract.

ON April 14, 2014 At 11:20 am, MERIWETHER COUNTY GA, Filed and Recorded,
By Kyemeshia T, Gibson, Clerk OF SUPERIOR COURT,

1) Kenneth Clark, I, me, my, myself The living soul, -V- THE STATE OF GEORGIA
Case # 98-CR-000319 Civil ACTION #

Extraordinary Motion For A NEW Proceeding under A Manifest Injustice,
and Actual Innocence,

- 2) Entry OF Appearance
- 3) Rule NISI,
- 4) Certificate OF Service,

ON MAY 9, 2014, I Filed, 11:00 am Meriwether County GA, Recorded Filed
by Kyemeshia, T. Gibson Clerk OF SUPERIOR COURT,

1) Truth Affidavit, Case # 98-CR-000319

Extraordinary Motion For NEW Proceeding under A Manifest Injustice and
Actual Innocence,

Kenneth Clark, I, me, my, myself, the living soul, -V- THE STATE OF GEORGIA,

ON July - 7, 2014 IN THE CASE OF Kenneth Clark -V- STATE OF GEORGIA,
Kenneth Clark, I, me, my, myself, The living soul -VS- THE STATE OF GEORGIA:
and Judge A Quillian Baldwin JR, Case # 98-CR-000319 CIVIL ACTION

- 1) Impeachment; At 11:32 Meriwether County Filed and Recorded
by Kyemeshia T. Gibson Clerk OF SUPERIOR COURT,
- 2) Truth Affidavit
- 3) Rule NISI,
- 4) Certification OF Service,

AS OF Today 8-19-2014 I have NOT had a Ruling From the
SUPERIOR COURT OF MERIWETHER COUNTY,
THE RULE NISI has NOT BEEN ANSWERED,
THE TRUTH AFFIDAVIT has NOT BEEN Rebutted
SEE: TRUTH AFFIDAVIT Rule (C) 6

Plain statement about The Facts: (A), (B), (C), (D)
THE MERIWETHER COUNTY SUPERIOR COURT, Judge and OFFICER'S
Government Agent, Corporation, is IN default of Responding,
and or Rebuttal (C) of Plain STATEMENT about the FACTS,
which is Refusing To Correct A INJUSTICE Created by Their
Court;

I ASK THIS COURT TO void said CONTRACT Created by The MERIW-
ETHER COUNTY SUPERIOR COURT, because my TRUTH is SOVEREIGN,
And The SUPERIOR COURT CAN NOT, and Did NOT Rebutt my Truth
And FACTS,

"Given" A Lawful CONTRACT has: (1) OFFER, IN which I NEVER KNEW
what was being offered in ENTERING This Contract, because I NEVER
KNEW IT WAS A CONTRACT, I Thought It was Mandated, so I was
Forced, by deception,

(2) Consideration = I NEVER had time To Consider any thing, because
I was NEVER given option, A clear understanding, The Truth.

(3) Acceptance: Had I KNEW The Truth There would be NO way I would
Forge my Name or Fraud myself, To become a Slave, To EXILE myself
From my Family, And Freedom;

(4) Signature By all parties - It void the contract for OFFICER'S OF
the COURT to have sign the UNLAWFUL CONTRACT any way because
I am ME A living soul, An The Government can't sign a Lawful Contract
(9) OF 10

with a living soul, National, Creditor, Private Person, To wit,
I, ME, MYSELF, My, Kenneth Clark,

All motion Filed by me and Recorded Filed by Kyemeshia
T, Gibson OF THE SUPERIOR COURT OF MERIWETHER COUNTY GA,
Clerk OF COURT, has become By The Judge 'To wit,' Baldwin Jr,
and Now Under Impeachment, Filed on THE Chief Judge
Are IN violation UNDER TITLE 15, COURTS,

CHAPTER 6, SUPERIOR COURT, Article 1, GENERAL PROVISION,
O.C.G.A § 15-6-21 - Time For deciding MOTION.

THE SUPERIOR COURT OF MERIWETHER COUNTY WITH LESS THAN 30,000
inhabitant's, Has Failed To Answer ANY MOTION I Filed From
April 14 2014 Through OUT July 7, 2014,

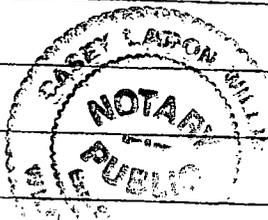
THERE BY I Ask GRANTED, Void Sentence and CONTRACT,
AND Impeach Judge Baldwin Jr,

I have met all Requirement To void CONTRACT OF Sentence. —

— KC —

Kenneth Clark, Grantor

Secured Party



Copy will

This Document was Prepared
by Kenneth Clark The living soul
X Kenneth Clark

Kenneth Clark, Agent : 653504
Power OF ATTORNEY IN FACT,

AT, Wilcox STATE PRISON

This 19 day of August 2014 yR P.O. Box 397 - J-2

Abbeville GA, 31001

X Kenneth Clark

THIS IS CERTIFICATION OF SERVICE

I do hereby certify that I have this day served the with and foregoing PETITION, PRIOR to Filing The same by depositing a copy thereof; then prepaid postage, IN THE UNITED STATE MAIL properly addressed upon;

ATTORNEY GENERAL OFFICE

Samuel OLEN'S

40 Capitol Square S.W.

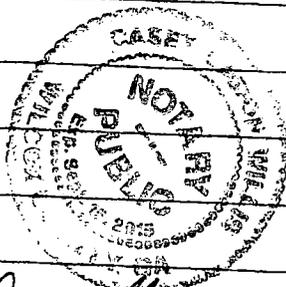
ATL, GA. 30334-

COURT OF APPEALS OF GEORGIA:

SUITE 501

47 Trinity Avenue

ATLANTA, GEORGIA 30334



Casey L. Mason

This 19 day of Feb 2017

Kenneth Clark 653504

Wilcox STATE PRISON

P.O. Box 397 - J-2

Abbeville GA, 31001

I me my myself The living soul

X Kenneth Clark

The Court of Appeals
47 Trinity Avenue NW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

August 26, 2014

Mr. Wayne Charles
Attorney at Law
395 Highgrove Drive
Fayetteville, Georgia 30215

RE: A14A2209. Clarence B. Harris, et al. v. Deutsche Bank National Trust
Company, et al.

Dear Mr. Charles:

Enclosed please find your "Request for Oral Argument" in the above referenced appeal. We cannot accept your Request for Oral Argument because it does not have a Certificate of Service showing service to opposing counsel. Therefore, I am returning your document to you.

Sincerely,


Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosure

WAYNE CHARLES, PC

ATTORNEY AT LAW

395 Highgrove Drive, Fayetteville, GA 30215
Phone: 770.241.8936 Fax: 770.460.0412
E-mail: wc115@bellsouth.net

RECEIVED IN OFFICE
2014 AUG 25 PM 3:48
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Stephen E. Castlen
Clerk of Court
Court of Appeals of Georgia
47 Trinity Avenue, SW.
Suite 501
Atlanta, Georgia 30334

RE: **REQUEST FOR ORAL ARGUMENT**
A14A2209
CLARENCE B. HARRIS et al. v.
DEUTSCHE BANK NATIONAL TRUST COMPANY et al.

Dear Mr. Stephen E. Castlen:

Appellants, Clarence B. Harris and Althea M. Harris, request that this case be placed on the Court's calendar for oral argument pursuant to Rule 28 of this Court.

The undersigned counsel for Appellants certifies that counsel for Appellee has been notified of the Appellants' intention to argue the case orally, that inquiry has been made whether said counsel desires to argue the case orally, and that Counsel for Appellee does also desire to argue the case orally.

Wayne Charles will be the counsel for Plaintiffs who will argue the case.

It will be helpful to this Court to have oral argument because this is a new issue for this Court. Just last year in You v. JP Morgan Chase Bank, the Georgia Supreme Court ruled that the assignee of a security deed, **who was not the holder of the note and had no beneficial interest in the underlying debt**, could foreclose on the property. 293 Ga. 67, 69, 743 S.E.2d 428, 430 (2013). The question this case presents is the one that

immediately follows from that decision: When that assignee has foreclosed, to whom does it pay the funds received?

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Wayne Charles".

Wayne Charles, Esq.
Counsel for Plaintiffs

cc: Montoya M. Ho-Sang

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS**

Date: August 29, 2014

To: Mr. Dwight L. Futch, Jenkins Correctional Facility 3404 Kent Farm Drive, Millen, Georgia 30442

Docket Number: A14A2195 **Style:** Dwight L. Futch v. Ralph Kemp, Warden

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **No Certificate of Service accompanied your document(s). Rule 6**
5. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other

For Additional information, please go to the Court's website at: www.gaappeals.us

IN THE COURT OF APPEALS

OF THE

STATE OF GEORGIA

DWIGHT L. FUTCH,
GDC#: 1000932451
Petitioner

vs.

CASE NO: A14A2195

RALPH KEMP, WARDEN
JENKINS CORRECTIONAL CENTER
BRIAN OWENS, COMMISSIONER
Respondent

MOTION FOR EXTENSION OF DIRECT APPEALS

1. Come now Dwight Futch, appellant in the above style action and moves this court to allow appellant to file an extension shows the following.
2. The appellant wishes to request this court to grant him an extension based on the rule of court of appeals. Appellant is requesting the honorable court to grant 90 days of extension in order to retain legal effective counseling to file appellant's brief. Appellant is pro se and believes that this is the proper vehicle to pursue.
3. Appellant prays that this motion for an extension of direct appeals be granted and further released. This honorable court deems just and appropriate.

Dwight Futch

RECEIVED IN OFFICE
2017 AUG 27 PM 3:40
CLERK/SECRETARY/ADMINISTRATOR
COURT OF APPEALS OF GA

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 29, 2014

To: Mr. Gerald Fisher, 799 Verner Street • Apartment B, Atlanta, Georgia 30318

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

For Additional information, please go to the Court's website at: www.gaappeals.us

FORM 2 - PAUPER'S AFFIDAVIT

COURT OF APPEALS OF GEORGIA

Gerald Fisher

APPELLANT

vs

State of Georgia

APPELLEE

*
*
*
*

CASE NUMBER

2004CR373

RECEIVED IN OFFICE
2004 AUG 29 AM 11:19
CLERK/COUNT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

PAUPER'S AFFIDAVIT

Comes now Gerald Fisher (Appellant's name) first being duly sworn, deposes and states I am financially unable to pay the filing fee required for filing costs in the Court of Appeals of Georgia, and I request I be permitted to file Appellant's brief (Appellant's Brief or Appellant's Application) without having to pay filing fees. I further swear that the responses which I have made to the questions and instructions below are true.

1. Are you presently employed? Yes No

If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer: _____

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: Cable News Network, 20
dollars an hour, 3,000 per month

2. Have you received within the past twelve months any money from any of the following sources?

- Business, profession or form of self-employment? Yes No
- Pensions, annuities or life insurance payments? Yes No
- Rent payments, interest or dividends? Yes No
- Gifts or inheritances? Yes No
- Any other sources? Yes No

If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months: 3,000 per month

FORM 2 - PAUPER'S AFFIDAVIT page 2

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts) Yes No

If the answer is "Yes", state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is "Yes", describe the property and state its approximate value:

5. List the persons who are dependent upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support: N/A

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

(a) A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question.

(b) A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. OCGA §16-10-70.

I, Gerald Fisher, do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauperis status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

This the 26 day of August, 2014.

Gerald Fisher

(Your name printed or typed)

Gerald Fisher

(Sign your name.)

799 Verner St Apt B

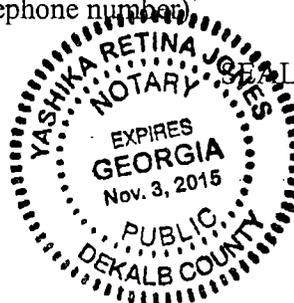
Atlanta GA 30318 404-447-0267

(Your complete address and telephone number)

Sworn to and subscribed before me

this the 26 day of August, 2014

Notary Public



[Signature]

Georgia court of appeals

Motion to waive benefit privilege

State of Georgia	)	court case number <u>2004CR373</u>
)	
vs.)	
)	
Gerald Fisher)	
)	

I GERALD ALEXANDER FISHER waive the benefit privilege of being corrected (sentenced) or having any "record" of an arrest, in regards to the above numbered case. THE UNITED STATES is not a country. The UNITED STATES is a corporation (U.S. Code > Title 28> Part VI > chapter 176 > Sub chapter A > & 3002)

28 U.S. Code & 3002- Definitions

As used in this chapter:

(1) "Counsel for the United States" means-

(15)" United States" means-

(A) a Federal corporation;

(B) an agency, department,commission board, or other entity of the United States; or

(C) an instrumentality of the United States.

(16) "United States marshal" means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

The United States Federal Government was dissolved by the Emergency Banking Act in March 1933. The Federal government as it is now known is in name only. On June 5, 1933, congress passed House Joint Resolution 192(HJR 192) to suspend the gold standard and abrogate the gold clause in the national constitution in order to handle the bankruptcy emergency of the United States, and to assure uniform value to the coins and currencies of the United States. To meet this end, the notes of the Federal Reserve Bank were created and declared "legal tender" for all payments, public and private, and that all payments in gold coin were against "public policy". The government officials then called upon the Federal Reserve bank to bail out the country with a loan at interest. The Federal Reserve issued bank notes to be the new currency. The currency of the United States became fiat money created by the Federal Reserve and is based on credit system, which means

money in reality is not an object of value, money is debt. Fiat money comes at a price. When the Federal Reserve creates money for use in commerce, it sells currency credits to national banks who then distribute this currency to the public. Because the UNITED STATES was bankrupt, it had no way to repay the loan, so it pledged the tax collections from the people of the UNITED STATES to meet this end. The U.S. declared bankruptcy in 1933 by President Roosevelt by Executive Order 6073, 6102, 6111, and 6260, and was codified at 12 U.S.C.A 95a (See: Senate Report 93-549, pgs. 187 & 594 under the "Trading With The Enemy Act [Sixty-Fifth Congress, Sess. I, Chs. 105, 106, October 6, 1917])

When I was born in the UNITED STATES, my future productive energy in the form of taxable income was pledged to the State via my Birth Certificate. A Birth Certificate is a certified bond (which includes a bond number) that the State sells on the open market to fund the UNITED STATES and its interest on the National Debt. Each birth certificate is valued as an authorized security interest. The purchaser of that bond is the Secured Party who owns the profits of my future energy output, which is measured in currency credits called Federal Reserved Notes.

Our money requires the force of a human to provide a signature for it before it is created; it is the signature that retains the value. This fact is a simple reality that a bank cannot issue its own credit nor can a court. This is where the term 'extension' in the financial markets is derived. The bank is extending the credit from another human to the receiving party. This is not a loan; it is an allowance from the previous activity. The credit is available through the private human to the public bank and then it goes back to the U.S. Citizens which become a public borrower. The human is able to enter into the public because he is a living, breathing, physical human being. In order to operate in the public, the human needs a U.S. Citizen to stand for him in the public domain.

All that is required from the U.S. Citizen is to have a human all sign the instruments, so in fact it is the human that must represent the citizen and furnish his bodily strength by his signature. The human would be supposed to be a compliant and willing party without obtaining any rights, without agreeing to terms that would be beneficial to him. If he applies his signature without determining new terms then he will not gain any rights in reimbursement for the value that he provided, which was the extension of his credit.

According to the United States Code, Nationals and Citizens of the UNITED STATES are under the jurisdiction of the United States and are required to fulfill the obligations thereof. One of these obligations is to contribute to reducing the National Debt, the loans from the Federal Reserve Bank, and restoring solvency in the UNITED STATES economic system.

I GERALD ALEXANDER FISHER am the collateral for every dollar that is printed in the United States. **I was not involved in any kind of "commerce" when I was arrested for "attempted burglary"**. I was defrauded by the court system because I was not told that according to Title 27 CFR section 72.11 Commercial crimes. Any of the following types of crimes (Federal or State): Offenses against the revenue laws; **burglary**; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit,

conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were **commercial crime**.

It is my assertion that my attorney, who is an extension of the court system, withheld pertinent information of my case. The District Attorney's office never made me aware of any maritime jurisdiction. This fraud caused me to enter a plea deal. I was never afforded adequate representation for this so-called crime. An attorney is not, representation. All persons have the right to adequate representation.

THE SIXTH AMENDMENT

The key to the fraud hinges on understanding the 6th Article of Amendment of the Constitution of the United States. The discussion begins with the text as follows: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense. The key words in the emphasized portions are ALL and SHALL. "All" implies that there is more than one criminal jurisdiction. "Shall" makes the enjoyment of the right to be informed mandatory. The information or indictment must state the nature and cause in plain language that is understood by the accused. Many victims accused of offenses against the STATE or UNITED STATES have found themselves in prison and all their assets forfeited "for lack of understanding" of the nature and cause of the accusation.

The Supreme Court has held:

There are no common law offenses against the United States. Only those acts which congress has forbidden, with penalties for disobedience of its command, are crimes. *United States v. Hudson & Goodwin*, 11 U.S. (7th Cr.) 32 (1812); *United States v. Coolidge*, 14 U.S. (1 Wheat.) 415 (1816); *United States v. Britton*, 108 U.S. 199, 206 (1883); *United States v. Eaton*, 144 U.S. 677, 687 (1892). Actions to recover penalties imposed by act of Congress generally but not invariably have been held **not to be criminal** prosecutions. *Oceanic Navigation Co. v. Stranaham*, 214 U.S. 320 (1909); *Hepner v. United States*, 213 U.S. 103 (1909); *United States v. Regan*, 232 U.S. 37 (1914). Contempt proceedings, which were at one time not considered to be criminal prosecutions, are no longer within that category. Compare *In re Debs*, 158 U.S. 564 (1895), with *Bloom v. Illinois*, 391 U.S. 194 (1968).

WHAT IS THE NATURE OF THE ACCUSATION?

If common law crimes against the United States do not exist, then article III, Section 2 provides for four different jurisdictions, law, equity, admiralty, and maritime. By process of elimination, I have ruled out

all other jurisdictions of law by virtue of the above Supreme Court holdings. Equity is defined as "Justice administered according to fairness as contrasted with the strictly formulated rules of common law. The term equity denotes the spirit and habit of fairness, justness, and right dealing which would regulate the intercourse of men with men. (See: Black's 6th). Equity deals with fictions, like corporations. Since it is common knowledge that law and equity have been combined are virtually indistinguishable from each other, and that anyone who has witnessed "criminal" proceedings in the courts easily recognizes that these "criminal" or "quasi-criminal" accusations are most usually contrary to the spirit and habit of fairness and justness and right dealing of men with men.

Therefore, the cause of action cannot be in equity. Admiralty is defined in Bouviers 1856 edition as": the name of a jurisdiction which takes cognizance of suits or actions which arise in consequence of acts done upon or relating to the sea; or, in other words, of all transactions and proceedings relative to commerce and navigation, and to damages or injuries upon the sea. 2 Gall. R. 468. Black's 6th edition observes that: "the terms "admiralty and "maritime" are virtually synonymous." Bouvier's 1856 edition defines "Maritime Cause" as:

1. Maritime causes are those arising from maritime contracts, whether made at sea or on land, that is, such as relate to the commerce, business or navigation of the sea; as, charter parties, affreightments, marine loans, hypothecations, contracts for maritime service in building, repairing, supplying and navigating ships, contracts and quasi contracts respecting averages, contributions and jettisons; contracts relating to marine insurance, and those between owners of ships. 3 Bouv. Inst. n. 2621.
2. There are maritime causes also for torts and injuries committed at sea.
3. In general, the courts of admiralty have a concurrent jurisdiction with courts of law, of all maritime causes: and in some cases they have exclusive jurisdiction. As long ago as 1851 the Supreme Court recognized that the Congress has the power to extend the jurisdictions of admiralty and maritime causes to the land under the commerce clause and deprive the people of the right of a trial by jury. The following holding by the high court pretty much says it all. : This power [of admiralty jurisdiction] is as extensive upon land as upon water. The Constitution makes no distinction in that respect. And if the admiralty jurisdiction, in matters of contract and tort which the courts of the United States may lawfully exercise on the high seas, can be extended to the lakes under the power to regulate commerce, it can with the same propriety and upon the same construction, be extended to contracts and torts on land when the commerce is between different States it may embrace also the vehicles and persons engaged in carrying it on. It would be in the power of congress to confer admiralty jurisdiction upon its courts, over the cars engaged in transporting passengers or merchandise from one State to another, and over the persons engaged in conducting them, and deny to the parties the trial by jury. Now the judicial power in cases of admiralty and maritime Jurisdiction has never been supposed to extend to contracts made on land and to be executed on land. But if the power of regulating commerce can be made the foundation of jurisdiction in its courts, and a new and extended admiralty jurisdiction beyond its heretofore known and admitted limits, may be created on water under that authority, the same reason would justify the same exercise of power on land." Propeller Genessee Chief et al. v. Fitzhugh et al. 12 How. 443 (U.S. 1851)the very next year, in 1852, the Supreme Court warned that this admiralty or

maritime threat to liberty was encroaching on the land and morphing itself into an air breathing creature just as a harmless tadpole transforms itself into a frog, and this is a really ugly frog. If you had never seen a tadpole gradually go through this miraculous process, you might never believe that such a transformation could occur, changing a harmless water-breathing creature into an air-breathing predator. Next to revenue (taxes) itself, the late extensions of the jurisdiction of the admiralty are our greatest grievance. The American Courts of Admiralty seem to be forming by degrees into a system that is to overturn our Constitution and to deprive us of our best inheritance, the laws of the land. It would be thought in England a dangerous innovation if the trial, of any matter on land was given to the admiralty" Jackson v. Magnolia, 20 How. 296 315, 342 (U.S. 1852) has the Congress expanded this admiralty and maritime jurisdiction? The answer is a definite and Emphatic, yes. One only need examine the codification at Title 18 of the United States Code, Section 7:

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE PART I - CRIMES

CHAPTER 1 - GENERAL PROVISIONS

Sec. 7. Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high

seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

-SOURCE- (June 25, 1948, ch. 645, 62 Stat. 685; July 12, 1952, ch. 695, 66 Stat. 589; Pub. L. 97-96, Sec. 6, Dec. 21, 1981, 95 Stat. 1210; Pub. L. 98-473, title II, Sec. 1210, Oct. 12, 1984, 98 Stat. 2164; Pub. L. 103-322, title XII, Sec. 120002, Sept. 13, 1994, 108 Stat. 2021.)

The broad language of Title 27, Code of Federal Regulations, Part 72.11 makes almost all crimes whether or not they are Federal or States crimes "commercial crimes." In the Propeller Genessee Chief, supra, it was revealed that admiralty courts have jurisdiction over interstate commerce, so it would follow that the crimes listed in 27 CFR 72.11 are cognizable in an admiralty or maritime court, and such are commercial courts. The relevant part of the text is as follows:

Commercial crimes are any of the following types of crimes (Federal or State): Offenses against the revenue laws; **burglary**; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime.

In the Ebsworth & Ebsworth lecture of 1994, infra, Proctor Wiswall states: "Congress has been repeatedly held by the Court to have the power to extend the admiralty and maritime jurisdiction by statute, and Congress has repeatedly exercised that power;" (see e.g., The "Lottawana", 88 U.S. 558

(1875); also *Panama Railroad v. Johnson*, 264 U.S. 375 (1924)). Admiralty and maritime jurisdictions' were merged with the law and equity jurisdictions in 1966 (See: Federal Rules of civil Procedure notes to supplementary rules for certain Admiralty and Maritime claims).

All four causes of action (or natures of the cause) which were once separate and distinct are now rolled into one set of rules and indistinguishable from one another in our modern courts. Federal Rules on Civil Procedure, (FRCP) Rule 1 provides that: "These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty with the exceptions stated in rule 81." Rule 2 provides that: "There shall be one form of action to be known as "civil action." FRCP Rule 9(h) provides in part: "if the claim is cognizable only in admiralty, it is an admiralty or maritime claim for those purposes whether so identified or not." FRCP rule 38(e) provides that: "These rules shall not be construed to create a right to a trial by jury of the issues in an admiralty or maritime claim within the meaning of the rule 9(h). Law, equity, admiralty and maritime, the once separate and distinct jurisdictions are now neatly rolled into one set of rules, tried in the same courtroom with the same judge, on the same docket with nothing to distinguish the different jurisdictions from one another commercial crimes!

I also want a full accounting of C.R.I.S (court registry investment system) for the above mentioned court case number 2004CR373

Resolution

1. That my arrest is expunged from my permanent record.
2. That the court recognizes my right to: waive the benefit privilege of being sentenced for any correction in regards to this case.
3. A full accounting of the Court Registry Investment System (C.R.I.S) accounts

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

August 29, 2014

To: Mr. Ahquan D. Boyd, GDC1001097939, Hancock State Prison, Post Office Box 339,
Sparta, Georgia 30187

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____
divesting this Court of jurisdiction. The remittitur issued on _____
The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

For Additional information, please go to the Court's website at: www.gaappeals.us

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2014 AUG 27 PM 03:42

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Sincerely, Ahquan D. Boyd

Respectfully Requested

I Ahquan Dante Boyd is requesting to be mailed to me the docketing number of my appeal case, with this honorable court. Also the court date of which my appeal is set for.

Dear Clerk

Court of Appeals
Suite 501
47 Trinity Avenue
Atlanta, GA, 30334

8-21-2014

Ahquan D Boyd
GDC #1001097939
Hancock State Prison
P.O. Box 339
Sparta, GA, 30187

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS**

Date: August 29, 2014

To: Mr. Anthony Duncan, C-3, Lowndes County Jail, 120 Prison Farm Road, Valdosta, Georgia 31601

Docket Number: A14A2191 **Style:** Anthony Duncan v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **No Certificate of Service accompanied your document(s). Rule 6**
5. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other

For Additional information, please go to the Court's website at: www.gaappeals.us

Aug. 22, 2014

To: Whom this matter concerns
I'm Anthony Randy Duran # A14A2191

I'm writing the courts with mercy to offer me and extension on my notice of exodating. The legal Direct Appeal. I have good reasons. The legal Direct Appeal that I received regarding my Direct Appeal Briefing from you. It was stamped being received August 01, 2014 but I didn't receive it until August 13, 2014. It's documented the day and date that I signed for it. I've filled out the proper paper work for the papers Affidavit over ten days ago. The law library doesn't work sufficiently now at this jail. It takes over two or three weeks sometimes before you see the law-Librian. Working Pro-se here in this jail is really hard because they move when they wish. Regardless if you have the proper paper-work filed or not. I hope

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2014 AUG 27 PM 01:06
CLERK COURT ADMINISTRATOR
COURT OF APPEALS

Sincerely yours
Anthony Randy Duran