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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 3, 2014

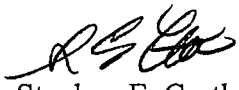
Mr. Allen A. Adams
GDC534697
Georgia Diagnostic and Classification Center
State Prison
Post Office Box 3877
Jackson, Georgia 30233

RE: A14A0810. Allen Alphonzo Adams v. The State

Dear Mr. Adams:

Your letter dated February 24, 2014 has been received. Your case was docketed in the April 2014 Term and a decision must be rendered by the Court by the end of July, 2014. The appeal has been fully briefed and is awaiting a Court decision.

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

March 3, 2014

Pastor David Clayboss
GDC1001199359
Jenkins Correctional Facility
Post Office Box 948
Millen, Georgia 30442

Dear Pastor Clayboss:

I am in receipt of your letter addressed to the now retired, Ms. Holly K.O. Sparrow. In your letter you requested information concerning how to file an appeal in this Court.

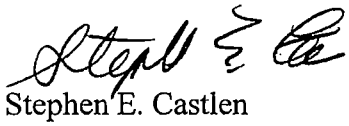
A Notice of Appeal is filed with the clerk of the trial court. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcript(s) as designated by the Notice of Appeal and transmit them to this Court.

When 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 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.

A Certificate of Service must accompany your Notice of Appeal. It must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must be actually 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.

I hope the information contained in this letter answers your questions.

Sincerely,



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

SEC/ld

To; Holly K.O. Sparrow
Clerk, Court of Appeals, State Of Georgia

Dear Holly,

I am a chronic pain individual since 1984. 1974 with Injuries obtain in 1974-75 Udorn Thailand, while serving in the United States AirForce, Air America Det. 1. The final injury to my back + rt, shoulder cut short a military, into 13½ years career.

pastoring ministeries, assist, pastor, exangelisim doing God Work. I gave till there isn't any more to give, Houston County rookies deputy sheriff saw to that. when they shot me in my own bedroom and left me to die. loseing spirits of blood. Pain, can you assist me, please. What a mess, what a letten see what I am up against?

Will you Give me some direction to have my appeal heard in (Appellate Court) Atlanta, Savannah, Not Houston County.

RECEIVED IN OFFICE
2014 FEB 28 PM 3:07
CLERK, COURT OF APPEALS OF GA

GDC 1001199359
Date Sentenced oct 2012
Houston County,
Judge Ed Luke Mire
35 yrs from Kangaroo Court ★

Thank you & God Bless You
Pastor Clayposs
Abundant Life Ministeries
Jenkins Com. Ctr.
Kent Farm Rd 30442

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 4, 2014

Mr. Rufus Chatman
GDC1001069862 B-42
Georgia Diagnostic and Classification Center
State Prison
Post Office Box 3877
Jackson, Georgia 30233

Dear Mr. Chatman:

In response to your "Appeal Court Memo" dated March 3, 2014, we do not have a case styled in your name pending in this Court. Until a case is docketed in this Court, all communications should be directed to your attorney or to the trial court.

Your 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. The State is represented by the District Attorney or an Assistant District Attorney in an appeal of a criminal conviction in a superior court.

I am returning your documents to you.

Sincerely,

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

SEC/ld
Enclosures

STATE OF GEORGIA
v.
Rufus Van Chatman
APPEALEE, (PRO-SE)

RE: Case #: 13CR0007
SUPERIOR COURT OF DEKALB CO
GA.

RECEIVED IN OFFICE
2014 MAR -3 PM 10:02

3/3/14

APPEAL COURT MEMO.

My name is Rufus Van Chatman GDC#: 1001069862
This is a memo to be included in my appeal case file to show:

I was convicted of (Armed Robbery and Burglary) via jury trial on May 8, 2013 and was sentenced to serve 45 years in the Georgia Department of Corrections.

I have yet to have any contact with my trial attorney (Patrick Chisholm) after being convicted, al though I've written him countless letters to inform him that one of my grounds for (MOTION FOR NEW TRIAL) and (Direct Appeal) should be ineffective assistance of counsel. Also my trial transcripts are in his office's possession and he refuses to send them to me and the Public Defenders Standards Counsil so I may be assigned Conflict-Free Council in a timely manor.

I submit this MEMO to appraise this Appeal Court that I DO NOT wish to waive my ineffective assistance of trial councel claim in no post convictions proceedings, MOTIONS, hearings, etc.

Respectfully Submitted
x Rufus V. Chatman
Rufus Van Chatman

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 insure that it reaches its destination, properly addressed upon:

William L. Martin, Clerk
Georgia Court of Appeals
334 State Judicial Building
Atlanta, Ga. 30334

This the 3rd day of March 2014.

Rufus Chatman
GDC#: 1001069862
Georgia Diagnostic Prison
P.O. Box 3877
Jackson, Ga. 30233

X Rufus W. Chatman

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 7, 2014

Mr. Michael Lane Brewer
GDC2043731 F-A-11
Richmond County Jail
Webster Detention Center
1941 Phinizy Road
Augusta, Georgia 30906

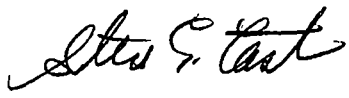
RE: A14A0799. Michael L. Brewer v. The State

Dear Mr. Brewer:

The Appellant's Brief was filed in the above appeal on January 23, 2014; the Appellee's Brief was filed on February 17, 2014. Your case is still pending before the Court.

Our records indicate you are represented by James Bonner and Michael Tarleton, both with the GPASC Appellate Division, 104 Marietta Street, Suite 600, Atlanta, Georgia 30303. Please contact your attorneys for any future updates of appeals you have with this Court.

Sincerely,



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

SEC/ld

Michael Lane Brewer
No. 2043731
Richmond County Jail /
Webster Detention Ctr., F-A-11
1941 Phinizy Road
Augusta, GA. 30906-5137

March 3, 2014

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

RE: A14A0799, MICHAEL L. BREWER V. THE STATE

Dear Clerk:

I am writing to ask what all Briefs have been filed in the above-referenced case? I need the date the Brief for the Appellant has been filed and the date that the Brief for the Appellee has been filed. Is the matter still pending?

If possible, please notify me of any decision of this court, thank you.

Sincerely,
Michael Lane Brewer
Michael Lane Brewer

POST SCRIPT: Who will be the presiding Judge and the other Panel Judges?

MR. OR MRS CASTLEN.

IM WRITTING THIS LETTER TO YOU TO ASK A COUPLE OF QUESTIONS. IM CURRENTLY FILING MY HABEAS CORPUS MOTION IN CHATTOOGA COUNTY WHERE IM IN-CARCERATED. AND IM TRYING TO OBTAIN A RULEBOOK TO THE HABEAS CORPUS PROCEEDINGS. IS THERE ANY WAY YOU COULD PLEASE PROVIDE ME WITH A RULE BOOK? BECAUSE I'VE ATTEMPTED TO RETRIEVE ONE FROM THE COUNTY CLERK, ONLY TO BE SHUT DOWN. IF YOU'D PLEASE RESPOND @ YOUR EARIEST CONVIENCE, I'D GLADLY APPRECIATE IT.

THANK YOU IN ADVANCE

LE'DAMIEN BALDWIN

Le'Damien Baldwin

Sent Rules
3.7.14

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 10, 2014

Mr. Greg G. Allen
Clerk, Forsyth County Superior Court
100 West Courthouse Square • Suite 10
Cumming, Georgia 30040

RE: Your Court Case Number: 11CR0158
Darron Jarrod Slayton v. The State

Dear Mr. Allen:

Enclosed, please find the record in the above appeal. We are unable to docket the appeal because the transcript requested in the Notice of Appeal is not included with the record. Please provide the transcript before returning the record to us.

If there is no transcript, please have the appellant amend the Notice of Appeal to remove the request for a transcript to be sent to this Court.

If you have any questions or if I can be of assistance to you, please do not hesitate to contact me.

Sincerely,

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

SEC/ld
Enclosures

RECORDS RETURN NOTICE

DATE 3/10/14

Style Darron Jarrod Slayton v. The State

Lower Court Forsyth Superior

Lower Court Case NO. 11CR0158

REASON:

_____ No/improper certificate of Service
_____ Improper Notice of Appeal
_____ Order not stamped filed
✓ Transcripts
_____ Notice of Appeal not stamped filed
_____ No Index/Improper Index
_____ Not properly assembled
_____ Main/Cross/Companion in same record
_____ Pages not numbered
_____ No appealable order in record
_____ No order on Motion for New Trial
_____ No Motion for New Trial (have order thereon)
_____ Order not signed by Judge
_____ No Notice of Appeal after Order granting Out of Time
_____ Notice of Appeal does not state to which Court Appealed or Appealed to one/jurisdiction to other
_____ Pages copied front/back
_____ Only one side printed of duplex document
_____ Other _____

Patty Bender - RE: State vs. Slayton

From: Patty Bender
To: Heard, Shelia E.
Date: 3/10/2014 12:32 PM
Subject: RE: State vs. Slayton

Okay, I will be returning the record as we either need the transcripts or an amended Notice of Appeal.

Patty Bender
Chief Deputy Clerk
Court of Appeals of Georgia
47 Trinity Avenue, S.W.
Suite 501
Atlanta, GA 30334
404-657-8353

>>> "Heard, Shelia E." <SEHeard@forsythco.com> 3/10/2014 12:17 PM >>>
Have not received transcripts for defendant
Shelia

From: Patty Bender [mailto:BenderP@gaappeals.us]
Sent: Friday, March 07, 2014 1:59 PM
To: Heard, Shelia E.
Subject: RE: State vs. Slayton

Shelia,

I am still holding these appeal record. Any update on transcripts?

Patty Bender
Chief Deputy Clerk
Court of Appeals of Georgia
47 Trinity Avenue, S.W.
Suite 501
Atlanta, GA 30334
404-657-8353

>>> "Heard, Shelia E." <SEHeard@forsythco.com> 2/14/2014 2:26 PM >>>
I have contacted Tosha Seaney, CCR
Thank you, Shelia

From: Patty Bender [mailto:BenderP@gaappeals.us]
Sent: Friday, February 14, 2014 1:36 PM
To: Heard, Shelia E.
Subject: Re: State vs. Slayton

Shelia,

Although trial attorney didn't order transcripts, the NOA was filed prose and he is requesting transcripts. I would need an amended NOA.

Patty Bender
Chief Deputy Clerk
Court of Appeals of Georgia
47 Trinity Avenue, S.W.
Suite 501
Atlanta, GA 30334
404-657-8353

>>> "Heard, Shelia E." <SEHeard@forsythco.com> 2/14/2014 11:57 AM >>>
I emailed attorney of record, Bert Barker, regarding transcripts. See above email.
He advised no transcripts requested.

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 7, 2014

To: Mr. Travis L. Durham, GDC835142 A-1, Long State Prison, Post Office Box 70, Ludowici, GA 31316
Docket Number: A14A0916 **Style**: Travis Durham 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 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

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

Travis Tyrone Durham Appellant v State of Georgia Appellee	Case # A14A0916

Motion for Non-Consideration

Now comes Travis Durham in the above-style motion for non consideration asking this court to not consider state brief for the following:

I.

Appelle has not ask for an extension time to file their brief.

II.

Appellee fail to file their brief timely by not submitting within 40 days Ga. Ct. App. R 23(B) Hill v State 282 Ga. App. 743, 639 S.E. 2d 637 (2006) Appellant prays that this court will grant this request.

This 1 day of March 2014

Respectfully submitted,
Travis Durham

Travis Durham Appellant v. The State Appellee	Case # A14A0916

Certificate of Service

I hereby certify that I have serve a copy of the within and foregoing motion for non consideration on the Court of Appeal of Georgia by placing said copy in the United State mail in a properly addressed envelope with adequate postage to insure delivery.

This 1 day of March 2014

Respectfully submitted
Travis Durham
Travis Durham #835142
Long State Prison
P.O. Box 70
Ludowici, GA 31316

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

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 10, 2014

To: Mr. Travis L. Durham, GDC835142 A-1, Long State Prison, Post Office Box 70, Ludowici, GA 31316
Docket Number: A14A0916 **Style**: Travis Durham 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 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)

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11. ☐ Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)

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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

Travis Tyrone Durham Appellant	
v	Case No. A14A0916
State of Georgia Appellee	

APPELLANT REPLY BRIEF

Now Comes Travis Durham in his Reply brief stating how the trial court errored in denying his motion to withdraw his guilty plea for the following reason:

I.

The entry of a guilty plea involves the waiver of three federal constitutional rights. Appellant was never advise of his Right Against self incrimination. The Record shows that Appellant was not advised of this Right. Appellant Reviewed a waiver Right form with Attorney but was never Advised of his Right Against self incrimination. It is the duty of the court to establish that the Appellant understand the constitutional Rights being waived and the Record must reveal the Appellant

waived his Right against self incrimination. Beckworth v. state 281 Ga. 41, 635 S.E 2d 769 (2006). The Appellee offer no explanation or challenge to this claim therefore Appellant plea was not Knowingly, Voluntary, and intelligent.

II.

Appellant fine was illegal, void, excessive, and unconstitutional. The Appellant Recieve a fine of $350,000 OCGA 16-13-31 (a)(1)(A) states 28 grams to 199 grams of cocaine shall pay a fine of $200,000 (B) states 200 to 399 gram shall pay a fine $300,000 (C) 400 or more grams shall pay a fine $1 million dollars. 35 gram was involve in Appellant case. Davis v. state 232 Ga. App. 450, 501 S.E 2d 241 (1998) states that Davis Recieved a fine $300,000 for meth less than 87.5 grams. Court of Appeal Rule the state exceeded it statutory authority, Also stated that the fine stated in the statue is mandotory and the amount of the fine is specifically directed in plain language. Appellee misconstrued the statue 16-13-31 stating the $200,000 fine is the minimum

The fine in the state is mandatory. Appellant Recieve a surcharge of $150,000 which is outragous excessive and unconstitional and violation of Appellant 8th amendment right excessive fine imposed. If the court can give a $150,000 in surcharges plus $200,000 the mandatory fine listed in O.C.G.A 16-13-31 would be in vain with no effect.

Conclusion

Trial court errored by denying Appellant motion to withdraw his guilty plea which Appellant has a statutory right and a constitutional right to withdraw his guilty plea. Appellant is requesting this court to reverse the trial court decision to deny Appellant motion to withdraw his guilty plea or whatever else this court deem is proper.

This 5th day of March 2014

Respectfully submitted,

Travis Durham

TRAVIS DURHAM

Certificate of Service

This is to certify that I, Travis Durham, Appellant have this day served the Appellee with a copy of the foregoing Reply brief of the Appellant by depositing in the United States mail a copy of the same in a properly addressed envelope with adequate postage affixed to.

Court of Appeal
Suite 501
47 Trinity Ave
Atlanta, GA 30334

This 5th day of March 2014 Respectfully submitted,

Travis Durham
TRAVIS DURHAM #835142 A-2
Long State prison
P.O. Box 70
Ludowici, GA 31316

FYI: GA appeals case # A14D0250
Selena Gooden
vs.
Zachary Ellis

IN THE SUPERIOR COURT OF GWINETT COUNTY

SELENA GOODEN
Plaintiff,

Case No. 14A01822-1

Vs.

ZACHARY ELLIS, et. Al.
Defendant

MOTION FOR ALTERNATIVE SERVICE

I, SELENA GOODEN PRESENT (A COURT APPROVED FORMER PAUPERIS AFFIDAVIT) TO THE COURT THAT I CANNOT AFFORD SERVICE IN THE USUAL MANNER. I HAVE NO INCOME. ADDITIONALLY, THE DEFENDANT ZACHARY ELLIS HAS USED METHODS TO EXHAUST MY FINANCES TO INCLUDE THE FACT THAT ZACHARY ELLIS WAS SERVED AND HAS NOT SHOWN IN TWO OTHER HEARINGS I'D INITIATED IN RELATION TO MY CHILD CALEB GOODEN ENDANGERED.

I HAVE ATTACHED THE FORMER PAUPERIS AFFIDAVIT HERETO, AND MOVE THE COURT PURSUANT TO O.C.G.A 9-11-4(I) FOR AN ORDER PRESCRIBING SERVICE TO BE MADE ON THE DEFENDANT BY MAILING TO HIM BY CERTIFIED MAIL, OR A COPY OF THE SUMMONS AND COMPLAINT AND A COPY OF THE ORDER OF THE COURT DIRECTING SERVICE IN SUCH MANNER.

I ALSO ASKED THE COURT TO APPROVE ALTERNATIVE SERVICE TO U.S. SUPREME COURT CHIEF JUSTICE JOHN ROBERTS USING ZACHARY ELLIS AS THE FOOL TO OBSTRUCT JUSTICE WHICH IS ENDANGERING MY SON CALEB GOODEN'S LIFE AND WELFARE AND CALEB GOODEN'S AND MY (SELENA GOODEN'S) FUTURE WEALTH (WE QUALIFY FOR APPROXIMATELY $6 BILLION).

LIKEWISE WITNESSESS AND TRIAL SUBPEONAS ARE REQUESTED TO BE SERVED BY THE FOLLOWING METHODS; IN PERSON/SIGNATURE (MY RESPONSE BY CERTIFICATE OF SERVICE); MAILING COPIES (USPS PRIORITY MAIL TRACKING) OR CERTIFIED MAIL

THIS THE ~~7th~~ 11th DAY OF MARCH, 2014.

SINCERELY,

Selena Gooden
SELENA GOODEN

FYI: GA Court of Appeals Case # A14D0250

IN THE GWINNETT COUNTY SUPERIOR COURT

Selena Gooden vs Zachary Ellis

FILED IN OFFICE
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

2014 MAR 11 PM 3:57

RICHARD ALEXANDER, CLERK

SELENA GOODEN

PLAINTIFF

Case: 14A01822-1

VS.

ZACHARY ELLIS AND JOHN ROBERTS

DEFENDANT

Hearing the emotional aspects of the case & the facts... "LIABILITY"

JURY DEMAND

W/WITNESSES

MOTION TO AMEND CONTEMPT OF COURT PETITION

SO THAT IT INTEGRATES A COMPLAINT TO SET ASIDE THE EXISTING FRADULENT COURT ORDER FOR CUSTODY **(ENFORCE EXPEDITED HEARING W/ JURY AND WITNESSES)**

I AM REQUESTING TO AMEND THE MOTION FOR CONTEMPT OF COURT SO THAT IT AT A MINIUMUM ACCOMPLISHES TWO OBJECTIVES:

Custody must automatically Default

a. SUSTAINS ACCOUNTABILITY FOR ALL CRIMES OF THE EXISTING COURT ORDER THAT VIOLATES/VIOLATED THE RIGHTS OF THE PLAINTIFF (SELENA GOODEN) AND HER CHILD CALEB GOODEN.
b. THEREAFTER ADDRESS THIS REQUEST TO SETS ASIDE AND VACATES THE FRAUDULENT COURT ORDER FOR CUSTODY GIVEN TO ZACHARY ELLIS AND DEFAULTS TO THE LAWFUL AND NATURAL CUSTODY OF THE UNWED MOTHER THAT SHOULD NEVER HAVE BEEN TAMPERED WITH AND ESPECIALLY NOT IN SECLUSION OF OTHER RESTORATIVE JUDICIAL CORRECTIONS.

GA. COURT OF APPEALS IS REVIEWING REQUEST TO VACATE AND SET ASIDE ALSO.

Selena Gooden's

THE GA. COURT OF APPEALS SHOULD BE WORKING TOGETHER WITH GWINNETT COUNTY SUPERIOR COURT AND VISA VERSA TO CORRECT AND RESTORE....INVOLVES THEM AND IS NOT LIMITED TO JUST THAT COURT....CHIEF JUSTICE JOHN ROBERTS HAS A REQUEST FOR SUMMARY JUDGEMENT AT THE U.S. SUPREME COURT FOR SELENA'S CASE, HOWEVER [redacted] ONLY ACKNOWLEDGEMENT IS A VOICEMAIL FOR SELENA GOODEN AT THE U.S. SUPREME COURT MAPPED TO CLAYTON RIGGENS.

Selena's.

Plaintiff

John owes Selena one agreement/receipt to recover Cust

On November 8, 2007 A Gwinnett County Court Judge and Billie Howick (Guardian Ad Litem) fraudulently kidnapped Caleb Gooden from his mother by strong-arming and entrapping, the Father Zachary into receiving the child, Caleb Gooden from the ~~Defendant~~ Selena Gooden. This was an effort to defeat the Unwed mother (Selena Gooden) in a lawsuit she was goaded into Against the U.S. Department of Health and Human Services/Centers for Disease Control and Prevention 3 months before Obama accepted his nomination for the Presidency. Selena's conservativeness and "goodness" was lent to Obama's Candidacy for the Presidency and his Presidency [redacted] ("In a First position in many regards") endured a demonic attack. A historical upright

Selena's

Selena

Selena

Insensitive Cyber-tampering

personal with historical protective family morals and values and state conservative morals and values that maps to Michigan (Family Values) and U.S. Chief Justice John Roberts "a conservative justice" with symbols that connect to Selena's family history having been nurtured by two good African American parents Selena had A wonderful protective stay at home mom while growing up and a protective father.

Selena standards are conservative.

Because of Selena's history, morals, and values, Selena never wanted children with Zachary Ellis's issues. Zachary deliberately impregnated Selena Gooden without consent. And because Selena is responsible and was prepared (owned two nice homes and a late model Mercedes Benz convertible at the time Caleb was conceived) and could afford Caleb and loved Caleb from conception because he is hers and Selena took responsibility immediately. I am forever devoted to my child Caleb.

Prop. mule.

During that time

While this was occurring Zachary Ellis the Caleb's father" being controlled by John, and/or military, had no rights to the child Caleb Gooden and Selena was trying to balance being protective of Caleb while being fair to Caleb and Zack even with his issues. Zack has been receiving mother supervised visitation with the infant and chances to visit without supervision for minutes at a time and he wasn't ready and begged off. Zack pulled Selena into court after two years to request two-day overnight visitation. Visitation Rights does not constitute custody.

had

mother supervising

a) Caleb Gooden was born out of wedlock and the 37 year old <u>responsible unwed mother</u> had full custody rights and had no interest in marrying the potentially abusive first-time father at the costs of Caleb's safety, health, and best interest. The father having stated to the mother's his concerns of his own abusive tendencies so both Selena and Zachary had decided to confront abuse...adults seeking the best interest of their child. (Whatever the Fair and reasonable mother deemed was best). Caleb to remain with his mother; and Visitation with Zachary Ellis would HAVE TO BE supervised visitation with... that would spiral into court-ordered supervised visitation until Caleb became of appropriate age where supervised monitoring would no longer be necessary and could grow to share custody. Something both Selena and Zachary had discussed in year one.

Selena confronted and Zachary begged off

b) Gwinnett County made a change TO CUSTODY without a petition for custody change
c) A custody change was made without a hearing for custody
d) The father has a COMPLAINT of misconduct in the Rockdale County Police Dept.
e) The father's legitimation procedure did not include claims for custody nor visitation

TEMPORARY CUSTODY OF UP TO 12 MONTHS MAY BE AWARDED FROM JUVENILE COURTS WITHOUT A FINDING THAT PARENTAL RIGHTS HAVE BEEN TERMINATED. (THERE WAS NO JUSTIFICATION IN SELENA GOODEN'S CASE FOR HAVING REMOVED CALEB FROM HIS PROTECTIVE MOTHER WITH FULL CUSTODIAL RIGHTS). ***<u>THE JUDGE (OFFICER OF THE GWINNETT COUNTY SUPERIOR COURT) HAD AN OBLIGATION TO LISTEN TO SELENA'S CONCERNS ABOUT HER CIVIL RIGHTS CASE AND SHOULD HAVE HELPED AND DIRECTED SELENA GOODEN WHERE SHE COULD HAVE ACQUIRED AND PROGRESSED IN HER CIVIL RIGHTS CASE WHERE CALEB'S BEST INTEREST AND THE "DELIBERATE" CIVIL RIGHTS LAWSUIT RETALIATION ON HIS MOTHER ALL THE SAME AND REALTED SUBJECT MATTER COULD HAVE BEEN CONSIDERED TOGETHER FOR INVESTIGATION AND DETERMINATION.***</u>

Related

John Roberts Obcession with Selena began with Selena's strong morals and values based mother (Johnnie) a 'stay at home mom" while Selena is a good mother and Selena also has an advanced degree in a male dominated occupation "Computer Information Systems".

Selena's mother (Jonnie Gooden)
- Selena's mother's husband, Selena's father, "Jack"
- Selena's mother's father "John", Selena's Grandfather "John"
- Selena's mother's brother "Robert", Selena's uncle Robert
- Selena's lastname and mother's lastname has good in it and coincides with Selena and her mother's lifetime behavior "Good"

Likewise, similar and coincides with U.S. Supreme Court Justice John Roberts

John's father goes by the name of "Jack"
John is "John"
John's Lastname is "Robert"
Chief Justice John Roberts is U.S. Chief Justice of the Supreme Court and as a Judge he is suppose to be loyal to both his names and "goodness" and John Roberts had targeted and proposed to Selena on her Civil Rights Journey as he was harming her life and severely holding her life back.

U.S. Supreme Court Justice John also in his obcession built a monument in the Supreme Court in Selena Gooden's name

Judge Sonya Sotomayor – during her nomination to the Supreme Court spoke out in empathy for Selena....Her mother's name is Selena too and that mother too worked very hard compensatorily, and out of love for her children "two jobs" to care for her children. Two jobs like Selena, the victim has always done except for times when she was both in College and working Professionally. Had also done the same when John's Robert's greed and corruption pulled her into "War on Terrorism Investigations and Content Creation work having violated Selena's rights. Selena rejected John Roberts proposal. John is a sick and selfish man.

Then John Roberts nominated "Elena Kagan to the U.S. Supreme Court Bench....adding an "S" to Elena you have "Selena" again. Selena with her father "Jack" are the names of the Supreme Court Justices parents. Likewise Selena's Gooden's mother is a #1 mother. Mother stayed home while Selena's father worked and both Selena's mother and father had been very protective of their children during their upbringing. Where Selena Gooden, more independent both protective and Educated.

Bellsouth Technical Co. + Technical occupation was way more challenging than in CDC

Someone having invaded Selena's privacy and cyber activities plotted Selena's Post Graduate "Award Winning Analysis" Employment post graduate school AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND THEN A lawsuit against the U.S. Dept. of Health and Human Services/Centers for Disease Control and Prevention. They'd thereafter aggressively invaded a very good mother's life to place Selena, the mother "a good light" and "smart light" was placed in a very bad light during Obama's Presidency. Selena had also just completed her Masters Degree in Computer Information Systems and HAD added that education to her accomplishments PRE-DEGREES which scaled to Director and CIO level capabilities in Information Technology AND PRESIDENTIAL AWARD WINNING ANALYSIS WORK [redacted] THE ADDITION OF TWO DEGREES SELENA WAS A DOMINANANT FORCE IN INFORMATION TECHNOLOGY AND HAD WORKED AT THE CDC IN INFORMATION SYSTEMS SECURITY AND AS A ASSOCIATE PROFESSOR AT WESTERN GOVERNOR'S UNIVERSITY TEACHING IT PROJECT MANAGEMENT AND BUSINESS ONLINE WHILE PARENTING A TODDLER. SELENA'S OBJECTIVE WAS TO PAY OFF HER HOME TO SECURE HER'S AND CALEB'S LIFE...NOT KNOWING THE DETAILS OF THE LONGEVITY NOR IMMORALITY IN THE FATHER'S LIFESTYLE THAT SELENA WOULD NEVER SUPPORT AS A WIFE, NEVER SUPPORTED AS AN EX-GIRLFRIEND AND WOULD NEVER SUPPORT AS A MOTHER PROTECTING OFFSPRING. SELENA AND CALEB (STANDARDS; TESTED, HEALTHY, MORAL REAL CONSERVATIVE VALUE SET HONEST VALUES AND MORALS).

Before

Selena is A highly intelligent; honorable and responsible Supreme #1 Single Mother having undergone a demonic attack during Obama's Presidency which includes economic, emotional, and psychological devastation. Obama and Michelle "Princeton" yet very bad parents (pedophilia; aids; lesbian, bad health etc.) with demonic symbolism; morals; values; and life symbols to include their children born to symbols that coincide with: Osama; Hussein; Abomination; and "Hell". (Obama's name coincides with terrorists: Osama; His middle names Hussein; and the OBAMANATION "HIS NATION" AND Michelle's name while is an okay name on it's own "has hell in it" and when combined, The parents Michelle and Obama and a match made in hell and their children are the children of Demonic values, morals, symbols, fatally diseased health, however had been given the Presidency of the United States

666

666

Had to be mentioned because the courts in Gwinnett County having stolen custody of Caleb Gooden had integrated "666" into the Civil Action Number on Caleb's Corrupt Custody Order and Caleb and Selena are all good, names are all good and both Selena's and Caleb's name are prophetic for "moon, light, good, #2 spy; god's gift; with healthy, and undiseased.

Selena, the mother has held physical custody of Caleb his entire life with the exception of the six months from November 8, 2007 to May 22, 2008 because of the fraudulent Gwinnett County order. During that time and because of corruption, the mother held Sat. and Sunday custody. May 22, 2008, the mother resumed full physical and legal custody because the father put Selena's baby back with his mother.

Despite that the mother because of her lawsuit assault and demonic attack continued to experience a severe economic, emotional, and psychological devastation related to her assault and lawsuit against U.S. Department of Health and Human Services/Centers for Disease Control and Prevention, etc. al responsible for compensating Selena's first $6 Million from her lawsuit against them and Selena never received compensation.

Now that lawsuit has grown to be valued at:

CHIEF JUDGE ROBERTS OWES THE MOTHER

1) $7.1 MILLION FOR COMPLETING War on Terrorism investigations- FORCED LABOR
2) A SHARE OF THE PROFITS FOR $6 BILLION FOR FORCED LABOR CONTENT CREATION WORK –
3) AND $100,000,000 TREBLE FOR VIOLATING THE MOTHER'S HUMAN RIGHTS
4) $75 MILLION FOR BLOCKING THE MOTHER'S OWN TECHNOLOGY START-UP COMPANY-www.sgtbs.webs.com

$4 MILLION FOR BLOCKING THE MOTHER'S VERSION OF HER STORY AND RIGHT TO MAKE INCOME. HE BLOCKED HER OWN BOOK "ANGEL OF MINE" 211. Selena's War on Terrorism Investigation began on 2/11/07 the day before Obama accepted his nomination for the Presidency 2/10/07.

Selena parenting Caleb having maintained good health; wellness; and honors in high performance schools having even been accepted in a prestigious private school in Michigan after an evaluation of Caleb's gifts and talents and the mother's.

On August 22, 2013 Zachary Ellis was influenced to kidnap his child from Michigan. Police Chief Craig having been attracted to Selena (HAVING NOT WANTED COMMUNICABLE WITH JOHN, ETC.) was made answerable, however.....suspect Supreme Court Justice Diane Hathaway involvement or the Hathaway Judge cartel from Detroit, MI and by that time Chief Judge John Roberts and Justice Scalia had already had Selena's Audio Testimony and had responded to her by way of email with red roses and the message "keep you". However had not Written Selena's Judgement for her lawsuit.

1. Some of the laws broken in kidnapping Caleb Gooden from Michigan include violations of:
2. Enforcement Registration of determination legal agreements
3. Enforcement temporary visitation legal agreements

POLICE OFFICERS IN DETROIT HAD INVADED SELENA'S MOTHER'S HOME TO TAKE CALEB GOODEN WITHOUT A WARRANT GAVE HIM TO HIS FATHER HAVING BROUGHT CALEB BACK TO ATLANTA, GA.

Intellectual. Selena also

CHIEF JUSTICE JOHN ROBERTS ALSO OWES THE MOTHER – W/ A MASTERS DEGREE IN COMPUTER SCIENCES **SUMMARY JUDGEMENT** AS **SHE (A REAL CHARLIE'S ANGEL)- HAVING NOT SURRENDERED TO MARRIAGE OR SEX BECAUSE EOF COMMUNICABLE INCOMPATIBILITY....(ALTHOUGHT FLATTERED BY THE PERSON'S POSITION HAVING ASKED). SELENA, HOWEVER CHOSED TO PURSUE HER LAWSUIT WHICH DEMANDED INTELLECTUALLY SLAVERY BECAUSE SELENA COULD NOT SURRENDERED TO DISEASED RELATIONSHIP INTEREST** WITH HIM NOR SOME OF THE OTHER INTERESTED LEADERS. JOHN HAD OBSTRUCTED SELENA'S JUSTICE FOR 7 YEARS WHILE; COVERING UP HER REAL HONOR (CELIBACY 3 YEARS THAT HAD GROWN INTO 8; PURE STRAIGHT; HIV NEGATIVE; NON-DRINKING; NON SMOKING; NO DRUGS; MASTERS DEGREE IN CIS; WAR ON TERRORISM INVESTIGATOR NON DRINKING; NON SMOKING; NON DRUGS; AND RIGHTFUL BILLIONAIRE STATUS HAVING WORKED FOR WHAT SHE IS REQUESTING, ETC. AND SELENA'S VISION WAS CHANGING BECAUSE OF STRESS HARD WORK HOWEVER, SOMETHING ELSE HAD BEEN UPLIFTING AND RESTORING SELENA'S HEALTH IN EVERY OTHER REGARD. HOWEVER JOHN WAS OBSTRUCTING SELENA'S **JUSTICE HAVING NOT PAID SELENA SO SHE COULD MOVE ON WITH HER LIFE**. JOHN BLOCKED SELENA'S EMPLOYMENT AND LIFE EVEN IN HER COMMON CAREER IT; CAUSED SELENA (WHO WOULD NOT APPLY FOR SOCIAL SECURITY DURING HER ASSAULT HAS HAD TO APPLY FOR SOCIAL SECURITY WHILE COMPLETING THIS FIGHT. SELENA HAVING NOT WANTED TO JUST DATE ANYBODY NOT RIGHT FOR HER JUST TO BE RESCUED CHOSE TO RESIDE IN HOMELESS SHELTERS (**1/4 OF HER CHILD SUPPORT WHILE SHE PARENTED FOR 7 YEARS; NO WORK COMPENSATION FOR 7 YEARS** WHILE SHE'D BEEN ENDURING A COVER-UP) WHILE SELENA ALSO HAD BEEN CONDUCTING A WAR ON TERRORISM INVESTIGATION. **"CHARLIE HOW DID YOUR ANGELS AND "SELENA IS" HOW DID YOUR ANGELS GET DOWN LIKE THAT?" JOHN, ALSO SABOTAGED ROMANTIC INTEREST SO SELENA COULD NOT DATE IN MEN IN HER REAL CLASS IN TERMS OF SOCIALIZATION; INTEREST; CAPABILITIES; ACCOMPLISHMENT; STRENGTH; COURAGE, ETC.:**

CSS

was provided as she parented 7 yrs

For Jerrey "Fucked Harbor"

DETROIT POLICE CHIEF CRAIG HAVING HAD INTEREST AND SELENA WAS ATTRACTED TO HIM; DETROIT SHERIFF BENNY NAPOLEON "HAVING DISCUSSED A PROPOSAL TO HIS ONE OF A KIND DESERVING SWEETHEART" MEN FROM HOME AND ....ALL IN SELENA'S PROPER SOCIALIZING CLASS ALSO INCLUDES FBI SPECIAL AGENT IN CHARGE "DETROIT, MI ANDY ARENA, MICHAEL MOORE, ETC. (AND ALL FROM DETROIT)...AND ALL POLICING AND OR WAR ON TERRORISM INVESTIGATORS....SELENA, A WOMAN ACCOMPLISHED THE SAME LIKEWISE. TO ADD TO THAT SELENA EARNED [redacted] CONTENT CREATOR $6 BILLION ALL WHILE SELENA....AND HAD PARENTED CALEB HAVING MAINTAINED HONORS IN HIGH PERFORMANCE SCHOOLS THE ENTIRE TIME SELENA WAS CHARLIE ANGELING ...WAR ON TERRORISM INVESTIGATION, and enduring a demonic assault.

SIGNED AND DATED THIS DATE 3/11 2014.

SELENA GOODEN

Selena Gooden

FYI: GA Appeals Case # A14D0250
Selena Gooden
vs.
Zachary Ellis

GWINETT COUNTY SUPERIOR COURT

STATE OF GEORGIA

Gwinnett County: CIVIL ACTION: 05-a-14666-1
GA. Court of Appeals: A14D0250

Selena Gooden

Vs.

Zachary Ellis,(et. al. and **U.S. Supreme Court Justice John Roberts)**

JURY DEMAND

EMERGENCY MOTION FOR CONTEMPT AND REQUEST FOR WARRANT AGAINST ZACHARY LANIER ELLIS

U.S Supreme Court Justice John Roberts proposed to plaintiff Selena Gooden during her civil rights case ...the "root cause' case to Plaintiff's custody, child kidnapping and child hostaging problems. U.S. Supreme Court Justice John Roberts "conspired and maliciously intended to OBSTRUCT and deter Selena Gooden (plaintiff) from winning her Civil Rights Lawsuit and from rescuing her only child Caleb Gooden. U.S. Supreme Court Justice John Roberts actions are causing Supreme Court Judges; Rockdale County Judges; Governor Nathan Deele; Rockdale County District Attorney Robert Reed, etc. and Wayne County Superior Court Judges to participate in a cover-up; that deprives the plaintiff of her only child and right to her wealth VALUED AT BILLIONS from her Civil Rights lawsuit. JOHN ROBERTS HAD been deliberately oppressing Selena Gooden's life and holding her life back. Forced Selena into dependency having disadvantaged her judicially and economically and causing Selena Gooden and her child Caleb Gooden tremendous, tremendous suffering. U.S. Supreme Court Justice John Roberts caused Selena's victimization which included having forced Selena into foreclosure and obstructed Selena's Gooden's career in Information Technology and other injuries. Then he'd (highly contagious) proposed and Selena rejected his Sexual Interest. So, U.S. Supreme Court Justice John Roberts guided Selena Gooden's intellect to work for him where she'd conducted:

- A War on Terrorism Investigation having earned $7.1 Million *An Intelligence Leader CIA and Judge having sourced the intelligence sciences guided Selena as she was writing the War on Terrorism Story....after having conducted The War on TERRORISM analysis on behalf of the country...Someone having pushed her to expand the analysis to help the other victims...helped Selena, this Sweetheart express beautifully the contents of her heart which is devotion to her son first and foremost and that spills off on other children...all races and genders. They'd helped Selena express her character and who she's been her entire life...*

good...just as her name implies. Together, they'd written the book of love and morality (her) and she'd also had to write of her experiences in Terrorism as it was occurring...Extreme evil and hatred

- Content Creator for the Pentagon having earned $6 Billion
- Violated 188 of Selena Civil Rights qualifying her for $100,000,000 Treble Damages just on law violations.

Selena Gooden is:

I AM A PHENOMENAL MOTHER (PROTECTIVE) AND LIKWISE SELENA'S OWN CHILDHOOD
HIGHLY EDUCATED – MASTERS IN COMPUTER SCIENCE
AWARD WINNING ANALYST – HONORED
WAR ON TERRORISM STUDY – HONORED BY A JUDGE
UPRIGHT
THE PINNACLE OF WOMANHOOD
TO INCLUDE HEROISM
ADDITIONALLY I DON'T DRINK, SMOKE, OR ENGAGE IN DRUGS
At the time I became pregnant I:
Owned two homes. A beautiful town home in the Emory area
Owned a Mercedes Benz – Convertible
PRE-DEGREES: Industry Recognized Excellence Award - Recognized Analyst that scaled to Information Technology CIO strategic planning/management.
Athletic/Vegetarian
Selena was dating NFL, and Technology Management
GOOD PERSON/MORAL
Both Caleb and I HIV negative

Selena had has a personal platform that she'd been implementing Practices: Made a vow in the past to be a Force of Good for AIDS Prevention and Awareness". Believes in "HIV Testing; Partnership Testing; Abstinence for teens; Sexual partner share a doctor; Serosorting; Is also a Vegetarian, Fitness.

Additionally, Selena's LIFETIME standing when she became a target; Straight; HIV negative; and a HIV Tester (a combination of private HIV testing and had been tested with a physician (no private). Selena also a 4-5 Mile runner, Additionally a Masters in Computer Science was working in Information Systems Security during the day and in the evening a Business and Information Technology Collegiate Assessor for graduate and undergraduate students at Western Governor's University. Morals high integrity - not perfect (good) ; a lawful, protective mom. SELENA TARGETED SELENA WHEN SHE WAS 3 YEAR'S CELIBATE BECAUSE I HAD JUST GAINED TWO DEGREES BACK TO BACK AND HAD A TODDLER I WAS PARENTING, A SINGLE MOM AND I HAVE A REQUIREMENT FOR HIV TESTING IN A RELATIONSHIPS.

SELENA WAS AN AWARD WINNING ANALYST WAS WORKING IN INFORMATION SYSTEMS SECURITY AND IN THE EVENING ONLINE COLLEGIATE ASSESSOR AT WESTERN GOVERNOR'S UNIVERSITY AND I WAS EARNING $120,000 BETWEEN BOTH JOBS. I ALSO HAD A HOME WITH EQUITY...ONLY OWING $88,000 TO PAYOFF THE MORTGAGE. I'D BEEN EARNING $120,000 PER YEAR. .

SELENA WHEN TARGETED HIV NEGATIVE; MASTERS DEGREE IN COMPUTER SCIENCES WITH A TODDLER NAMED CALEB. NAMED (AFTER A SPY - GOD'S SPY); "Selena's son's name is Caleb prophetic names: (God's #2 spy) (Nathaniel prophetic Hebrew name for God's Gift) and Good naturally in his name. While Selena his mom's name is (prophetic for moon, light) and (Good) naturally in Selena's name. ..Selena's name infused with her son's name are the #1 Spotlight and #2 Spy WITH GOOD IN BOTH NAMES).

So, ILLEGAL SURVEILLANCE - Former CIA Director Panetta (Now Also Former Defense Secretary's had worked for Clinton and Obama's Administration. Along with Robert Gates (former National Security and Former Defense Secretary).....ILLEGALLY SURVEILLENCE OF SELENA'S
LIFE.- AN HIV NEGATIVE WHO'D ADDED TWO DEGREES BACK TO BACK TO 9 YEARS OF INFORMATION TECHNOLOGY EXPERIENCE. . SO, JOHN ROBERTS, Stole something THAT AN INTELLIGENT GOOD WOMAN AND DEVOTED MOTHER

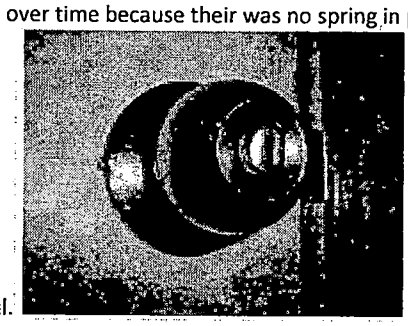
COULD NOT LIVE WITHOUT, HER CHILD. (Selena had her child late in life at 38 when she didn't think she'd become a parent.

Selena, Historically protective of children:
Selena's mother was a new born nurses assistant for newborns when Selena and her siblings were younger
Selena's mother was a victim of abuse in her teens resulting in Selena's father being very conscience and protective of Selena's mother and his children. Loved Selena's mother (SELENA'S MOTHER BECAME AN AT-HOME MOM AFTER HER 3RD CHILD). Selena never had step parents because of my parent's commitment to protections especially my mom who'd been a victim. SELENA'S MOM IS 68.
Selena experienced in the past "HIV UNCERTAINTY" Afraid to have tested for HIV from 1988-1999. During that period Selena stagnated and WAS IN "psychological bondage" didn't want to have children nor did I want to pursue my dreams of completing my degrees because of it. A lot of people's lives (ETHICAL PERSONS) are and were stagnated by "HIV Uncertainty". Selena began testing for HIV in 1999 (An HIV negative). I conceived at age 38 (Feb. 2001). A very appreciative mother and I VALUE my son, despite that I got pregnant on HIS FATHER'S terms. My son's father WAS A FORMER fiancée THAT I HAD BROKEN UP WITH TWO YEARS EARLIER. IN A ONE TIME MEETING THEREAFTER, He'd pushed his desires on me and as a result the condom broke. He and I had never intended on having children together. We'd never had those discussion even while we were in a long-term engagement during 1995-1999. BOTH WERE IN "HIV UNCERTAINTY" AND HAD BROKEN UP AND THEREAFTER I WAS BRAVE ENOUGH TO TEST - MATURE, ACCOUNTABLE AND RE-ENTERING THE DATING SCENE.
BECAUSE there was a two-year break in my involvement with ZACK, THE man who'd impregnated me HAVING VIOLATED my liberties, and health. Regardless I responded responsibly and cautiously having gotten pregnant on someone's else's terms his an (invasion). I WAS RESPONSIBLE ENOUGH TO GO THROUGH A SERIES OF TEST FOR HIV. I'd spent my pregnancy celibate and not with the father by choice and because I'm devoted to my son's life and health, I wouldn't breasfeed until I obtained another HIV test.
Nonetheless, because I had had a long-term (exclusive) engagement with my son's father in the past, I extended him the courtesy to be a Dad. We were no longer in a relationship of any kind.
I responded in my pregnancy by choosing and maintaining independence and single parenting.
I did give (Zachary Ellis) an opportunity to claim his own son. Zachary was at the hospital when Caleb was born; Bought all of Caleb's items to come into the World; and he'd taken me to the doctor to tend to my labor. HE WAS THERE. "HAD ALSO COMMENTED THAT HIS SON WAS BEAUTIFUL HE WAS THE FIRST ONE TO HOLD HIM." SO I ALLOWED HIM TO VISIT WHILE I MONITORED. Immediately after our son was born, Zachary Ellis expressed aversion to tots. There is something in his family history where ZACK NOR HIS MOTHER LIKED CHILDREN. ALTHOUGH HIS DECEASED MOTHER WAS BOTH A MOTHER OF GROWN CHILDREN AND ALSO A GRANDMOTHER). Because Zachary again expressed that he had "Anxiety, A History of dislike for children, " Selena had to delay Zack's one-on-one parenting involvement however monitored FOR A FEW WEEKS until he could prove himself ABLE TO LIKE CHILDREN BY WAY OF HIS OWN SON AND PROVE HIMSELF trustworthy around our young son. AFTER A WHILE, I OFFERED HIM his first ONE ON ONE VISIT with OUR SON! I WAS GONE FOR 15-20 MINUTES. WENT TO THE MALL AND COULDN'T EVEN GO INTO THE STORE BECAUSE I DIDN'T WANT TO BE AWAY FROM MY BABY SO I TURNED AROUND AND PICKED HIM BACK UP ONLY TO FIND THAT HIS DAD ZACHARY ELLIS HAD CALLED THE POLICE AND CHILDREN AND FAMILY SERVICES TO TAKE HIM. Mother's intuition, I RETURNED JUST IN TIME TO RESCUE MY BABY. VERY, VERY UPSET A "HEARTBROKEN" THAT ZACHARY WOULD BREAK MY HEART BY HAVING THE POLICE TAKE "MY BABY"....SELENA'S BABY.

ZACK'S FEARS WERE STILL TREMENDOUS. SO THEREAFTER AND AFTER A WHILE, I ALLOWED ZACK TO VISIT WITH CALEB AT MY HOUSE ONLY ANYTIME HE'D REQUESTED. SO HE'D COME OVER HOLD CALEB, FEED CALEB AND LEAVE. AFTER A WHILE HE STAYED AWAY FOR MONTHS, HOWEVER, PAID NON COURT ORDERED CHILD SUPPORT, STAYED AWAY FROM OUR SON FOR ABOUT 2 YEARS. I WAS COMPLETING GRADUATE SCHOOL IN COMPUTER SCIENCE AND CARING FOR MY TODDLER; WHILE WORKING PART-TIME IN THE SCHOOL SYSTEM/AND APPRAISING REAL-ESTATE. I NEEDED THE FLEXIBILITY - INTERMITTENT WORK - THAT'S HOW I FUNDED STAYING HOME AS A SINGLE MOM DURING THE FIRST YEAR'S OF CALEB'S LIFE. I HAD A HOME WITH EQUITY AND I ALSO HAD A MERCEDES BENZ PAID FOR.

CALEB'S FATHER RESUMED VISITATION WITH SELENA'S TODDLER AND AT A FUTURE DATE CALEB'S FATHER WANTED TO LEGALLY LEGITIMATE CALEB AND I ALLOWED IT AND HE REQUESTED AT A FUTURE VISIT TO HANDLE ON HIS OWN, A 2nd one on one visit; he returned my son with A "inside" the corner crease of the mouth moderate sized pimple and a "diaper rash" I PRESUME. Exposed that he was NOT ready (and that my son was still too young for the father to care for without monitoring). Selena having taught Caleb good touch bad touch questioned Caleb about his visit with his father. I tried to ascertain how the "diaper rash" was established. Because Caleb couldn't communicate very well at that age. We were in the dining room of my home. Caleb proceeded toward the door in the dining room and placed his finger in the whole in the wall to described what he'd experienced. The whole in the wall behind the

door was created over time because their was no spring in place to prevent the door's inside door-knob lock from damaging the wall.



- When Selena spoke to Zack about it both he and Selena agreed to contact the authorities to file a report and **Selena, a responsible mother, initiated help from the courts approx. 2003 to ask for a Guardian Ad Litem to Assist with a monitoring program** to help the **father trying to be honest** learn how to be a Daddy where he could develop to parent one-on-one.
- Selena's son was surrounded with love from Selena's pregnancy. Selena's friend Tracy, Selena's best friend, Tracy of 20 years (A Nurse practioner) stepped in immediately during Selena's pregnancy to tell Selena that Caleb would be her God Son. Tracy is a Nurse Practioner and Bobby, Selena's other friend of 10 years stepped in to be a wonderful Godfather. **He had no other children so, Caleb meant EVERYTHING to him.**
-
- ***DURING SELENA'S REQUEST FOR A GUARDIAN AD LITEM BY THE MOTHER TO HELP THE FATHER BECOME A PARENT WHO COULD ENJOY ONE-ON-ONE PARENTING,, The Judge in Gwinnett County, GEORGIA HAD CRUELLY TAKEN CUSTODY FROM THE MOTHER AND GIVEN M-F CUSTODY TO THE FATHER. A FATHER WHO DIDN'T WANT CUSTODY AND STATED THAT IN COURT. ASKED THE JUDGE WHAT WAS HE DOING AND SO DID SELENA. SELENA HAS A MASTERS DEGREE IN COMPUTER SCIENCE; SELENA JUST ADDED TWO DEGREE DIFFERENCT TO 9 YEARS AND EXISTING INFORMATION STRATEGIC MANAGEMENT EXPERIENCE; SELENA WAS WORKING IN INFORMATION SYSTEMS SECURITY DURING HE DAY AND IN THE EVENING, SELENA WAS WORKING AT HOME AS AN ONLINE ASSESSOR FOR WESTERN GOVERNOR'S UNIVERSITY TEACHING INFORMATION TECHNOLOGY AND BUSINESS AND SELENA IS IN A LAWSUIT AGAINST THE CENTERS FOR DISEASE CONTROL AND PREVENTION; WHERE THEY TOLD HER BEFORE TERMINATING HER "DON'T YOU FEEL DISCRIMINATED AGAIN? IF MANAGEMENT WANTED TO HELP YOU, THEY WOULD; WHY DON'T YOU GO HOME, MARRY A MAN WITH MONEY AND TAKE CARE OF YOUR KID. THE CENTERS FOR DISEASE CONTROL AND PREVENTION SENT MEN WITH AIDS AND ISSUES OF PEDOPHILIA IN THEIR PROGRAMS TO HUNT SELENA'S LIFE AFTER THEY RUINED HER CAREER AND EVERYTHING SELENA ACCOMPLISHED AND THE JUDGE IN GWINNETT COUNTY GEORGIA HELPED THEM DO IT. SELENA HAVING BEEN BUSY COMPLETING HER DEGREES BACK TO BACK WAS THREE YEARS CELIBATE BECAUSE SHE WAS TAKING CARE OF HER TODDLER AND SELENA AND HER SON ARE HIV NEGATIVE.....***
-
- ***SELENA WAS IN A CIVIL RIGHTS LAWSUIT AGAINST THE CENTERS FOR DISEASE CONTROL AND PREVENTION BECAUSE HEALTH RESEARCHERS DELIBERATELY DESIGNED HER VICTIMIZATION AND DISCRIMINATION LAWSUIT TO MAKE HER FIGHT....TO EXHAUST HER HEALTH.***
-
- **After 4 months OF THE FATHERS' M-TH Custody, the father knowing how much that mother was 'HEARTBROKEN" AND SUFFERING AND IS THE ONE WHO LOVES CALEB AND WOULD PROTECT HIM, SO THE FATHER PUT THAT SELENA'S SON BACK IN THE GOOD HANDS, HIS MOTHERS M-S THE WAY IT HAD ALWAYS BEEN.** That Judge IN GEORGIA, HUMAN TRAFFICKER THAT WAS BEING CONTROLLED AND INFLUENCED BY ALQUIDA AND AIDS AND PEDOPHILE PUNKS WITH TIES TO THE MILITARY AND THE CENTERS FOR DISEASE CONTROL AND PREVENTION AND WAS VIOLATING SELENA'S HUMAN RIGHTS.
-
- A pedophile (in DOD/HHS with AIDS) accessing the resources of illegal surveillance and INVADING LIVES USING military dominance attacks following THE BEST AND THE BRIGHTEST: HIV NEGATIVES AND COLLEGE GRADUATES (RESPONSIBLE PERSONS) AND USING CONTROL mechanisms to RUIN LIVES.
-
- He ruined the mother's $120,000 a year careers (she'd established, had gone to graduate school for computer science, (not rocket science, brain surgery, acting, singing or culinary). Selena's son' was the motivation for having completed her two degrees back to back. Additionally, Selena was a homeowner with equity and owned a convertible Mercedes Benz. (Independent). Could handle parenting. What Selena didn't know is whether or not her career would ever BECOME STABLE IN EXECUTIVE INFORMATION TECHNOLOGY MANAGEMENT IN SOMEONE ELSE'S COMPANY...SELENA WAS GROWING CONFIDENT IN THE KNOWLEDGE SHE'D GAIN WITH TWO DEGRESS SHE'D

GAINED BACK TO BACK AND CONVERGED WITH 9 YEARS OF TECHNOLOGY EXPEREINCE. BOTH AREAS CONVERGED AND SELENA WAS A FORCED TO BE RECKONED WITH.

Gwinnett County, GA Juvenile Court in 2007 had kidnapped Selena's son and placed 666 on his decision to remove custody from the parent that's most protective, Selena to discredit Selena Gooden.

John Roberts Obcession with Selena began with Selena's strong morals and values based mother (Johnnie) a 'stay at home mom" while Selena is a good mother and Selena also has an advanced degree in a male dominated occupation "Computer Information Systems".

Selena's mother (Jonnie Gooden)
Selena's mother's husband, Selena's father, "Jack"
Selena's mother's father "John", Selena's Grandfather "John"
Selena's mother's brother "Robert", Selena's uncle Robert
Selena's lastname and mother's lastname has good in it and coincides with Selena and her mother's lifetime behavior "Good"

Likewise, similar and coincides with U.S. Supreme Court Justice John Roberts
John's father goes by the name of "Jack"
John is "John"
John's Lastname is "Robert"
Chief Justice John Roberts is U.S. Chief Justice of the Supreme Court and as a Judge he is suppose to be loyal to both his names and "goodness" and John Roberts had targeted and proposed to Selena on her Civil Rights Journey as he was harming her life and severely holding her life back.

U.S. Supreme Court Justice John also in his obcession built a monument in the Supreme Court in Selena Gooden's name

Judge Sonya Sotemeyer – during her nomination to the Supreme Court spoke out in empathy for Selena....Her mother's name is Selena too and that mother too worked very hard compensatorily, and out of love for her children "two jobs" to care for her children. Two jobs like Selena, the victim has always done except for times when she was both in College and working Professionally. Had also done the same when John's Robert's greed and corruption pulled her into "War on Terrorism Investigations and Content Creation work having violated Selena's rights. Selena rejected John Roberts proposal. John is a sick and selfish man.

Then John Roberts nominated "Elena Kagan to the U.S. Supreme Court Bench....adding an "S" to Elena you have "Selena" again.
Selena with her father "Jack" are the names of the Supreme Court Justices parents. Likewise Selena's Gooden's mother is a #1 mother. Mother stayed home while Selena's father worked and both Selena's mother and father had been very protective of their children during their upbringing. Where Selena Gooden, more independent both protective and Educated.

"SELENA, CALEB'S MOTHER HAS NOT SEEN CALEB HER ONLY CHILD DESPITE THAT THE ROCKDALE COUNTY DEPUTIES HAVE BEEN CONDUCTING CHILD WELFARE CHECKS AT THE DAD'S HOUSE AND TELLING SELENA THAT HER CHILD IS ALIVE AND HE'S BEEN AT SCHOOL AND AT HIS FATHER'S HOUSE". (JOHN ROBERTS HAD DEMONSTRATED ROMANTIC-COMMITMENT INTEREST IN SELENA AT THE VERY BEGINNING OF HER LAWSUIT; JOHN ROBERTS LATER PROPOSED TO SELENA "MARRY JOHN" AFTER SELENA COMPLETED THE FILING OF HER LAWSUIT CLAIM REQUESTING $100,000,000 TREBLE FOR OVER 175 VIOLATIONS (COUNTS) OF HER HUMAN RIGHTS; AFTER SELENA SENT THE AUDIO RECORDINGS OF SELENA IN 2013 TO THE U.S. SUPREME COURT, A JUSTICE RESPONDED "KEEP YOU" WITH FLOWERS ATTACHED TO THE MESSAGE.

ROCKDALE COUNTY SHERIFF'S DEPT IS IGNORING SELENA'S RIGHTS TO HER CHILD AND CALEB'S RIGHTS TO HIS MOM....(SELENA'S CONCERNS FORWARDED TO GOVERNOR'S NATHAN DEELE'S OFFICE AND THE GEORGIA BUREAU OF INVESTIGATIONS.

AS OF 2/10/14 - ROCKDALE COUNTY/ROCKDALE COUNTY SHERIFF AND JUDGES HAVE NOT ALLOWED CALEB TO CALL AND VISIT HIS MOTHER NOR SELENA TO CALL AND VISIT CALEB IN ANY REGARD. IT'S BEEN UNLAWFUL, AND SEVERE HUMAN CRUELTY. ZACHARY ELLIS, THE CHILD'S FATHER IS IN CONTEMPT OF COURT IN TWO COUNTIES. **THE JUDGES HAD BEEN DIRECTING ZACHARY'S BEHAVIOR**. SELENA HAS BEEN UNABLE TO REACH ZACHARY AND UNABLE TO REACH CALEB.....THIS ALL WAS BROUGHT INTO BEING BY OUR THREE TOP JUDGES ....U.S. SUPREME COURT JUSTICE JOHN ROBERTS; NSA NEXT...

PENTAGON JUDGE/DEFENSE SECRETARY GATES; PENTAGON JUDGE/DEFENSE SECRETARY PANETTA...HAVING HOOVERED NEAR SELENA'S GOODNESS, TALENTS, CHILD, HONOR, COURAGE, CELIBACY, ...

AS OF 2/10/14 - THE GA STATE SUPREME COURT HAS HAD A 30 DAY REVIEW OF SELENA'S GOODEN CUSTODY CASE AND HAS RENDERED AT DECISION THAT THE CASE BELONGS IN GA. COURT OF APPEALS WHERE SELENA HAD ORIGINALLY SUBMITTED THE CASE.

AS OF 2/10/14 - THE APPEALS COURT IN GEORGIA IS CURRENTLY REVIEWING SELENA'S CUSTODY CASE AND HAS DIRECTED SELENA CONCURRENTLY TO TRANSFER CERTIFIED COURT DOCUMENTS TO THE ROCKDALE COUNTY DISTRICT ATTORNEY'S OFFICE TO DEAL WITH THOSE HAVING BEHAVED CRIMINALLY.

AS OF 2/10/14- THE GOVERNOR'S OFFICE HAS ALSO DIRECTED SELENA TO STATE CPS AND TO THE GBI BECAUSE ROCKDALE COUNTY SHERIFF'S DEPARTMENT HAS NOT BEEN ENFORCING THE LAW REGARDING ZACHARY ELLIS' DISREGARDING THE ORDER IN SELENA'S AND ZACHARY'S CURRENT CUSTODY AGREEMENT (ALTHOUGH IT'S UNLAWFUL..IT'S ALL WE HAVE UNTIL THE COURT'S DECISION TO SET ASIDE AND VACATE THAT CORRUPT ORDER). THAT ORDER VIOLATES BOTH SELENA AND CALEB'S RIGHTS. SELENA HAS A RIGHT TO SOLE CUSTODY OF CALEB GOODEN, HER CHILD AND NO ONE HAD ANY RIGHT NOR LEGAL STANDING TO HAVE CHANGED THAT. SELENA HAS RIGHTFUL CUSTODY. SELENA'S HAS HAD PHYSICAL CUSTODY OF CALEB HIS ENTIRE LIFE AND CALEB SHOULD BE WITH HER RIGHT NOW.

JUDGE NANCY BILLS – GEORGIA STATE SUPREME COURT ROCKDALE IS VOLATING THE LAW IN NOT ALLOWING SELENA GOODEN THE PROTECTIVE MOTHER ACCESS TO HER SON AT SCHOOL IN ROCKDALE COUNTY GEORGIA. ADDITIONALLY, SELENA "A BLAMELESS VICTIM" AND "HERO" SHOULD NOT BE ON PROBATION FOR HAVING TRIED TO RESCUE HER CHILD FROM HARM. SELENA HAS HAD PHYSICAL CUSTODY OF CALEB HIS ENTIRE LIFE. CALEB IS SELENA'S CHILD. ROCKDALE COUNTY IS GUILTY OF HAVING TRIED TO COVER-UP THE CRIMES OF A JUDGE CARTEL HAVNG SPITED HONORABLE MOTHERS AND HONORABLE WOMEN. KIDNAPPING CALEB WAS AN ATTEMPT AT STEALING HONOR FROM SELENA A "CHARLIE'S ANGELS" AND COURAGEOUS WAR ON TERRORISM INVESTIGATOR DESERVING OF HONOR IN HER WORK; VALUES; PARENTING; PRE-DEGREES ACCOMPLISHMENTS AND THEREAFTER. SELENA GOODEN, MICHAEL MOORE, AND ANDY ARENA ARE IN THE SAME CLASS AND SOMEONE WAS TRYING TO DOWNPLAY SELENA'S HONOR. A FEMALE TERRORISM INVESTIGATOR...."CHARLIE'S ANGELS".....

SELENA HAD PETITIONED BOTH THE GBI AND ROCKDALE COUNTY MAGISTRATE COURT FOR A WARRANT FOR ZACHARY'S ELLIS' ARREST. SELENA IS REQUESTING TO WAIVE ALL FEES BECAUSE CIVIL CORRUPTION HAS BEEN ECONOMICALLY BURDENING SELENA IN A CRISIS AND LIFE AND DEATH SITUATION. **SELENA IS ALSO AWAITING SUMMARY JUDGEMENT IN HER CIVIL RIGHTS SETTLEMENT VALUED AT $6 BILLION. JOHN ROBERTS SHOULD ADDRESS THE SETTLEMENT DURING THE SELENA VS. ZACHARY CONTEMPT OF COURT HEARING.**

THE TASK FORCE IN ATLANTA **"KNOWING SELENA IS OF HIGHEST QUALITY HAVING TRIED TO DOWNPLAY EXCELLENCE"** AND DELIBERATELY CONSTRAINED SELENA TO A 3 WEEK SHELTER IN THE MIDST OF HER CRISIS WITH HER CHILD. THERE IS THE PROPENSITY FOR BOTH CALEB AND SELENA TO BE "MISSING PERSONS" AS A RESULT OF THE OVERALL CORRUPTION. ADDITIONALLY TASK FORCE STOLE SELENA'S ONLY PHOTOS OF CALEB. SELENA HAS NO PHOTOS OF CALEB REMAINING. THEY ARE ALL AT ZACHARY'S HOUSE THE PARENT BREAKING THE LAW AND AIDING AND ABETTING U.S. CHIEF JUSTICE JOHN ROBERTS AT THE EXPENSE OF (CALEB'S AND HIS MOTHER'S WEALTH $6 BILLION AND A WONDERFUL WONDERFUL MOTHER TO CALEB, SELENA GOODEN).

SELENA'S PSYCHOLOGIST DORIAN LAMIS OF EMORY UNIVERSITY TREATING SELENA AT GRADY HOSPITAL IS BEING VERY RESPONSIVE AND HAS INCREASED HIS APPOINTMENTS WITH SELENA TO WEEKLY. SELENA IS VERY APPRECIATIVE FOR AN ATTENTIVE CARING DOCTOR WHO LISTENS.

GEORGIA COURT OF APPEALS

THE REQUEST FOR GEORGIA COURT OF APPEALS IS FIRST AND FOREMOST TO VACATE AND SET ASIDE THE CORRUPT COURT ORDER WRITTEN BY GWINNETT COUNTY COURT. A COURT ORDER THAT WAS NEVER INITIATED BY WAY OF PETITION FOR CUSTODY AS REQUIRED BY LAW.

2ND IS TO EXAMINE THE LAWLESSNESS OF INDIVIDUALS AND NEXT PROSECUTE INDIVIDUALS BREAKING THE LAW.

The U.S. SUPREME COURT

"The names of the Supreme Court Justices Parents are Selena and her father "Jack" (The most proper morals) along with Selena's morals and values based mother Jonnie a #1 traditional mom.

Selena also appealed the decision from the GA Supreme Court to U.S. Chief Justice John Roberts having taken a month to make a decision and Selena's child was in jeopardy and Selena asked for an emergency hearing and the U.S. Appeals Court forwarded the case back to Georgia Court of Appeals after exhausting 30 days while Selena's son is in jeopardy.

Gwinnett County Superior Court

The root cause of Caleb's and Selena's Domestic Rights Violations are initiatiated from Gwinnett County Courts. **A corrupt court order that was never initiated from a petition for custody.** A petition for custody is required by law and there was NEVER A PETITION TO CHANGE CUSTODY. CHANGING CUSTODY IS A TREMENDOUSLY HUGE DEAL AND SOMETHING THAT WOULD HAVE HAD TO BE PREPARED FOR AN ARGUED IN FRONT OF A JUDGE AND THIS NEVER OCCURRED. No one knows for certain what Gwinnett County Superior Courts original motive is for having violated the rights of a real good mother, Selena Gooden. (The investigators suggested that Billie Howick was spiting middleclass educated African American mothers in good health.) + are protective of their children.

WITNESS LIST-SUBPEONA

Kathleen Bertrand
Tommy Dortche
Elderin Bell (Former Police Chief – Former Clayton County Commissioner)
Atlanta Police Chief Kevin Turner
Detroit Police Chief – James David Craig
Dorian Lamis, Ph.d
Lorene Bromfield
Tracy English
Tyler Perry
Betty Cook
Catrina Ravenel
Governor Deele
Judge Gail Tusan
Allow witnesses to be added as necessary

Sincerely,

Selena Gooden

Selena Gooden

While Selena Gooden has the following qualities: Had been a Teacher of Children of all Races and is protective of children; Has advocated for children and citizens protections and her efforts scaled to Congress. Selena has a family foundation that's always been endearing to children. Also, has Quality-Standard of Excellence to include: Virtue, morals, values, goodness, intelligence, and integrity.

FINDING OF FACTS

a) There is one child that is subject of this action: Caleb Nathaniel Gooden

b) [redacted]

c) The father failed to appear in an Emergency Hearing with Judge Gail Tusan in Fulton County Superior Court, Atlanta GA in the summer of 2012 regarding custody and related issues.

d) Recently, the father failed to appear in case management conference on 10/10/13 at 9 a.m. in front of Judge Lynn Pierce in Wayne County 3RD Judicial Court Detroit, MI. (Was a second attempt at a hearing for these issues).

e) The home state of the child Caleb N. Gooden is Detroit Michigan, where Caleb and his mother have resided for 1 entire school year therefore; Michigan is the child's proper jurisdiction by law. Additionally Michigan is the mother's hometown.

f) Michigan also has jurisdiction Under the Uniform Child Custody Jurisdiction and enforcement Act and Michigan is the child's homestate. and an order from the U.S Supreme Court Supercedes state jurisdiction.

g) The best interest of the child is that he is with his natural mother, Selena Gooden. Selena is an excellent mother and had been and is also a caring caregiver and advocate of children and citizens of all races and her advocacy scaled to congressional level advocacy for children and citizens.

h) The father had unlawfully been given Temporary Custody in 2007 and SERIOUSLY abandoned the child on two occasions and did not provide reasonable and necessary care and supervision of a blameless and innocent child.

i) The father also deliberately doesn't communicate with the mother and in the past 7 years he's not said greater than 200 words to the mother and his actions as a parent makes his child (10) vulnerable to abduction and other endangerment. The father having kidnapped the child and taken his out of State on July 22, 2013 and controlling communication from child to mother and mother to child. The father is allowing the child one 10 MINUTE PHONE CALL PER WEEK to the protective mother.

j) The initial 2007 custody determination by the Gwinnett County Judge was unethical and unlawfully granted to an abusive and mentally ill father, who hadn't asked for custody despite that the Gwinnett County judges order in 2007 was temporary and done to spite a mother who'd been and is a standard of excellence in parenting, health and in her capabilities and had been and is a plaintiff in a Civil Rights Lawsuit.

k) The original 2007 custody change by the Judge in Gwinnett County to the father was/is unlawful and highly unethical violates the most basic Custody Laws and the laws in Georgia.

l) A petition for visitation modified to take Custody from an Excellent Custodial mother, is what occurred in 2007 in the Gwinnett County Courts and is unlawful. The facts (indicate that THE GWINNETT COUNTY JUDGE WAS INVOLVED IN A KIDNAPPING SCHEME FROM THE START).

m) Custody was stolen to spite an independent, highly educated mother (having completed a Masters Degree in the computer sciences who'd completed her Masters Degree so she could overwhelmingly and successfully take care of her baby's life who was 3 years old at that time she'd completed her Masters Degree. Selena was a middle class single mother, who was/is a standard of excellence in Technology. The Gwinnett County Judge (Guardian Ad Litem Billie Howick) had an obligation to keep custody with the mother and for some reason was spiting her.

n) The father had never petitioned the court for custody change. THERE WAS NO SUCH PETITION FOR CUSTODY EVER REQUESTED IN THE GWINNETT COUNTY COURTS by the father in 2007 or any other year or in any other courts ever. Gwinnett County tried to steal custody from a mother who'd been an is a standard of excellence.

o) Gwinett County Courts had unlawfully given Temporary Custody to an insane and abusive father.

p) The Gwinnett County GA 2007 unethical custody order to the father is unlawful and shall be stricken from record.

q) The natural mother Selena Gooden's custodial rights as an unwed mother, supercedes any custody order. Additionally, the mother has had physical custody 92% of the time of the child, Caleb Gooden, his entire life while the mentally ill father held 8% of the custody and did not deserve that.

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

March 11, 2014

To: Mr. Adrian DeCarlos Brown, GDC915791, Jenkins Correctional Center, 3404 Kent Farm Drive, Millen, Georgia 30442

Docket Number: **Style:** **Adrian DeCarlos Brown 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:

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

Supreme Court of Georgia Case Transfer Form

Date: 03/10/2014

Case Number: S14D0701

Date of Transfer: 02/20/2014

Briefs/Motions Filed Before Transfer:

Filing Date	Description	Attached?
01/22/2014	Discretionary Application	☑
		☐
		☐
		☐
		☐
		☐
		☐
		☐

Briefs/Motions Filed After Transfer:

Filing Date	Description	Attached?
		☐
		☐

Costs:

Cost Paid Date:

Payer:

Payment Type: ☐ Credit Card ☐ Check ☐ Cash

Transaction Number (if applicable):

Receipt Number:

Costs Not Paid: ☑ Indigent

D2-014

APPLICATION FOR DISCRETIONARY APPEAL

Case No. S14D0701

D2-014

ADRIAN DECARLOS BROWN v. THE STATE

Trial Court Order: December 10, 2013

Filed: January 22, 2014

Response by: February 03, 2014

Final order due by: February 21, 2014

Grant: _____

Deny: _____

Dismiss: _____

Transfer: _____

Other: _____

SUPREME COURT OF GEORGIA
Case No. S14D0701

Atlanta, February 20, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ADRIAN DECARLOS BROWN v. THE STATE

From the Superior Court of Bibb County.

Applicant, who was convicted of armed robbery, aggravated assault with intent to rape and rape, filed a "Motion to Enter a Valid Judgments" challenging his convictions and sentences. The trial court dismissed the motion and applicant filed his application for discretionary appeal in this Court invoking its constitutional question jurisdiction. But no constitutional questions were raised or ruled on below and applicant was not convicted of murder. As there thus is no basis for jurisdiction 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.

Sui C. Fulton, Chief Deputy Clerk

IN THE SUPREME COURT OF GEORGIA
STATE OF GEORGIA

ADRIAN DECARLOS BROWN, APPLICANT.	
VS.	CASE #: 96-CR-45865 96-CR-46004
STATE OF GEORGIA, RESPONDENTS.	AUTHORITY'S: O.C.G.A. 35-6-33/5-6-34(A)(1)

APPLICATION FOR DISCRETIONARY APPEAL

COVER PAGE / INDEX

PRO-SE BY:
ADRIAN D. BROWN.

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 11, 2014

Mr. Levi Arthur Fedd
208 Court Street
Donalsonville, Georgia 39845

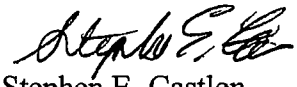
Dear Mr. Fedd:

I am in receipt of your Petition for Writ of Habeas Corpus. The Supreme Court of Georgia, not the Court of Appeals of Georgia, has appellate jurisdiction over habeas corpus matters. I am returning your documents to you.

The mailing address for the Supreme Court is:

Supreme Court of Georgia
244 Washington Street, S.W. • Suite 572
Atlanta, Georgia 30334

Sincerely,



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

SEC/ld
Enclosures

HABEAS CORPUS — ~~H~~ all Copy

under MARCH ~~3~~ 2014 ~~1~~ 3-7-2014

Levi Arthur

vs.

The superior court of Seminole County

Georgia — COURT CHARGES

DOCKET No. 2013-5-15

Acknowledment Legal materials;

§ or Depositions, you are Hereby Been notified;

under HABEAS CORPUS, my Right, unconstitionally; Civil Right And Constitionally Right Has Been, Violated And miscarriage

of justice. The law reviews. Legal Defense,

case was Drop By judge in The superior court, Rearrest For Same offense And sentence Two 20 years serve 10 in State prison By The

Same judge; under 17-7-170 Am. Jur. 2d 21 Am. Jur. Criminal Law, §§ 317 et Seq., 330 et Seq. C.J.S. — 16 D C.J.S Constitiional Law,

§ 1436. 22A C.J.S., Criminal Law, §§ 578-587. ALR Discharge of Accuse under Limitation statute as a bar to a subsequent prosecu-

-tion for The same offense, 3 ALR 519, Remedy for Delay bringing Accused to Trial or Retrial after Rever, 58 ALR 1015. yes i am

demand for new jury trial yes i Have Filed under Habeas Corpus

Levi A Fedd march 6 2013
The juRoRS was not qualified to tRy The case,
on sex AND offenses, OR ON code section
entered Demand FoR it to Be time Simply my

Constitational Right was violated And Civil Right
depive Defendants equal protection of the Law
THE indictment Failing to allege commission
of CRime.
information, Told me Levi A Fedd
i can not tell junoRS in tRial That He DRop The
Case. He will Lock me up under oAth The judge
Requirements is Code Section By Law

Violated under this section Code And proceeding,
provided By Law FalSe information By District
Ottorney, FoR State intentionally Lying
To judge And The judge Know it, Changes BaSed on a

Single act i Levi ARthaR Fedd AppeARS be BeFoRe
court judge that judge is a judial officer
of State of georgia wich the judge IS

public SeRvant, and it is within the judge powER
to determine whether the act alleged to
Have Been committed By magistRate
OF this State whethe such act constituted
a violation of an ordinance of city, judge DRop,

Charged. Supreme Court judge in Seminole
County, Georgia, No Bill And DRop

District AttoRney T.C Raig Earnest
Six month Leater intentionally Lying to judge
pick up The Charged. pROSECUTOR

jonathan Hamilton investigator intentionally
Lyian to The judge
i Have Read the above Statement of 1-2 pages
And attes that it IS A TRUE, accuRate

Levi A Fedd march - 6 - 2014 - 5 - 15
account of the events which took place,
procedure where violations of state law

Charges Based on A Single - Change -
Court Disposition cycle 220
Case Number 13-0134 Court Agency GA125015J

Subject s Name Fedd Levi ARTHUR - charge
Tracking Number 88388032 U-1 - Charge
Literal probation VIOLATION C when probation

Terms ARE ALTERED FOR, Fingerprintable -
charge - misdemeanor - statute 428-38
State offense code 5002 Severity - misdemeanor
Disposition - Dismissed 2013 - 7 - 1 - Dismissed

Agency ID Seminole Co Sheriff s office incident
GA125000, Report
internal use only original Report
statute 16-6-8. public indecency / indecent
Exposure - Fel - After / CNT 1 GOC A - UCR - 3799 -

Description obscenity : other offense - location -
Description and address 3919 Ella orange Rd -
~~Donalt~~ Donalsonville GA 39845 - incident Date 5-1-2013 -

Time 1400 To Date 5-1-2013 Time 1401 - Stranger -
To Stranger UNK yes - Day of week ~~The~~ incident
Tae zone 2 - County - yes complainant - commercial -
yes Residence. Case state cleared - By arrest -,
arrest at or near offense yes -
503 Kevin Long
Date ~~of~~ of Report 5-2-2013 - Follow up
patrol N Follow up - Detectives yes - ADCLI yes -

Clearence Date 5.1.2013. Case status cleared By
arrest investigator assigned 503 -
Jonathan Hamilton Assigned Date 5-1-2013 -
cops - 2 - 4

page (4)

Levi A Fedd - march 6-2014 5-15

card Report call # 34947 - case -
Rt By CKnight
16:51-49 - Signal 10-145
City - Ct Donalsonville Loc Rd - CR Rd - Clean - Cd - To - Incident Location - Rd -
information Name 3144 OLD JAKIN RD -
City Ct DonAL sonville Seminole - phone 911-123-8233

Lot Zip ESN 270 - phone 0123-8233 - ESN 270 -
How Recv Call times Recv 5-1-2013 15-36-17
Disp 16-5-5 Enrt 16-5-10 - onsn - 16-7-17 in TR - 16-18-23

Dest comp 5-1-2013 - 16-10-40 - Comment -

2ND House ong The Left on ELLAORange

unit	Case	Dept	Time	Signal	Status
5018 2013	5-15	So	16-5	DIS	Dispatched
5018 2013	5-15	So	16-5	ENR	En Route
5018 2013	5-15	So	16-10-29	CLR	cleard
503 2013	5-15	So	16-5-8	DIS	Dispatched
503 2013	5-15	So	16-5-12	ENR	En Route
503 2013	5-15	So	16-7-17	ONS	onScene
503 2013	5-15	So	16-10-9	CLR	Cleard
503 2013	5-15	So	16-18-23	INT	inTransit
503 2013	5-15	So	16-1-24	CLR	Cleard

Notes

Enter Time/By 5-1-2013 - 15-57-21 -
216-1769 Knight, ChRiSC update 5-1-2013
KNIGHT CHRIS C

Levi A Fedd mach_6_2014_5_13_
no evidence RULE. Nor warrant to apply
to ARR
Claims Statutory Rules to the
proof to Apply Evidence_ exemplified

exemplifications Being primary of evidence_
which a case is Being tride is material
evidence in a case_
Code section on Evidence, is Been Affidavits
under Corpus Corpus_ Weighing of evidence

Constitional Right and Civil Right all Beed
violated_ under Evidence Rules By Law
Crime Charged_ of Child molestation, Absence of Law

equal protection_ of The Law_
Habeas Copus_ authorized to give credit to the
transcript of evidence The issues_ The Davis_

And Two students_ As They were ~~pass~~ passing_
This Residence on county School Bus
Saw the black male in The window

naked_ in side The House passing By gond 30 MP
eye witness say 10_th Seat Driver side_ ~~Seat~~ in
Same Seat_ turned_ around East The eye witness

say Seat on pass side_ eye witness say widow
~~on East~~ ON West side_ Davis Trina, ~~no~~ say
no East widow_ at The Same Time

The court shall review the trial Record and
transcript_ of proceedings_ Rules_ at trial_
And on Appeal, event i had new counsel

Subsequent to trial and Raised A claim of
ineffective assistance of trial counsel;

all Counsel in my case

Challenging a conviction under ~~Habeascorpus~~ Habeas corpus

Constitutional Law And Criminal Law, seeks to be discharged

upon The ground under on Habeas corpus constitutional Law And Criminal in Felony Case 5-15

Any person Accused of A offense may enter A Demand for trial at the term of court at which the indictment is found or at Th next Succeeding Regular term thereafter or By special permission of The Court;

under Habeas Corpus Application of miscarriage of justice By Supreme Court in Seminole County Georgia;

Burde of proof No proof at all on Defendant, eye witness Have no proof it was Defendant The Duty of Court of inginy is to determine whether there is Suffic ient Reason to suspect the guilt of the accused The judge prop No will 14-7-190-5 photostatic copies of The House not Defendant Constitutional Right was violated. no pretrial interviews with witness State failed establish that

O.C.G.A. §§ 17-14-1 and 17-14-7 Had Been violated By the State

C.J.S. 32A C.J.S Evidence §§ 734 752.

24-3-12

17_12_31_

under 24_2_1 Relevancy

obstuction of investiga
Statement indicatind _ Consciousness of guilt_

Evidence Relevant Requiring Criminal Defendant
Rule Regarding necessity of victim testimony.

The judge do not bringg to jury That The case
was Drop_ By judge_,
ineffective assistance
of counsel_ The wintess was threatened to Be put
in jail By precautions_ 24_2_1 _ 24_2_2_

24_1_1 A.R. 24_1_1 Definitions. all code_;
motion to Drop insuperior coats
Seminole County_;

I have Read the Above Statement of 1 of 7 pages_
attest that it is a true accurate account of
The events which took place under oath_ By Levi Alfed
d_

i Hereby certify that i have this date Served
a copy of the order
By emailling and depositing
a Copy of same i the united States_ mail in an

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to the Following T. Craig Earnest _ Chevene King
Debbie S womble judge Ronnie joe Lane
CPD mike Thomas_

Certificate of Service

Levia Fedd

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

March 11, 2014

To: Mr. Christopher Dontae Greene, GDC1000338517, Telfair State Institution, Post Office Box 549 Helena, Georgia 31037

Docket Number: **Style: Christopher Dontae Green 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:

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

Supreme Court of Georgia Case Transfer Form

Date: 03/10/2014

Case Number: S14D0698

Date of Transfer: 02/20/2014

Briefs/Motions Filed Before Transfer:

Filing Date	Description	Attached?
01/21/2014	Discretionary Application and Request for Extension of Time	☑
		☐
		☐
		☐
		☐
		☐
		☐
		☐

Briefs/Motions Filed After Transfer:

Filing Date	Description	Attached?
		☐
		☐

Costs:

Cost Paid Date:

Payer:

Payment Type: ☐ Credit Card ☐ Check ☐ Cash

Transaction Number (if applicable):

Receipt Number:

Costs Not Paid: ☑ Indigent

D7-014

APPLICATION FOR DISCRETIONARY APPEAL

Case No. S14D0698 D7-014

CHRISTOPHER DONTAE GREENE v. THE STATE

Trial Court Order: March 15, 2011

Filed: January 21, 2014

Response by: January 31, 2014

Final order due by: February 20, 2014

Grant: _____

Deny: _____

Dismiss: _____

Transfer: 70, ASC

Other: _____

SUPREME COURT OF GEORGIA
Case No. S14D0698

Atlanta, February 20, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CHRISTOPHER DONTAE GREENE v. THE STATE

From the Superior Court of Douglas County.

Applicant, who apparently was convicted of armed robbery and possession of a knife during the commission of a crime, filed this application for discretionary appeal, seeking review of the trial court's order denying his motion to modify sentence. As applicant states no basis for this Court's subject matter jurisdiction, and no basis for jurisdiction appears in the record, this 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.

Sui C. Fulton, Chief Deputy Clerk

GEORGIA STATE SUPREME APPELLATE COURT

Defendant
CHRISTOPHER DONTAE GREENE CASE No. 09CR01311
VERSUS
GEORGIA SUPREME APPELLATE COURT GDC# 100033851

APPEAL OF MOTION TO MODIFY SENTENCE

NOW COMES, CHRISTOPHER DONTAE GREENE, defendant pro-se in the above self-styled action and prays this Honorable Court to grant this MOTION FOR MODIFICATION/REDUCTION OF SENTENCE pursuit to O.C.G.A. 17-10-1, as set forth for the following reasons:

(1)

Defendant was sentence to twenty years on count one and five years consecutively on count three with credit for time served since October 7, 2009; That upon service of thirteen years, the remainder of twelve years may be served on probation.

(2)

Mitigating factors that were presented to the sentencing court were having neighbors, volunteers, teachers, and employers speak on my behalf. Documenting about how my influence in the community was productive and postive. (SEE attachment 1).

(3)

Defendant has been employed with Lenard Johnson's Electrical Power Positive, LLC as a Electrical Engineer Apprentice for a period of 14 months.

(4)

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 13, 2014

To: Mr. Don Faircloth, GDC577853, Johnson State Prison, Post Office Box 344, Wrightsville, Georgia 31096
Docket Number: A13A1915 **Style**: Don Faircloth 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: The Motion to File a Supplemental Brief was denied on March 12, 2014. Please find the Supplemental Brief attached.**

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

IN THE COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

DON ROBERT FAIRCLOTH,	
APPELLANT,	
V.	APPEAL CASE NO: A13A1915
STATE OF GEORGIA,	
APPELLEE.	LOWER COURT CASE NO: 07-CR-37

APPELLANT'S SUPPLEMENTAL BRIEF

APPELLANT, ON THE 14TH DAY OF JANUARY, 2014, FILED HIS MOTION TO SUPPLEMENT BRIEF BY PLACING A COPY OF THE SAME IN THE PRISONS MAILBOX AT JOHNSON STATE PRISON, WRIGHTSVILLE, GEORGIA, 31096.

THIS COURT ISSUED A RULING ON APPELLANT'S APPEAL, CASE NO: A13A2389, BUT, AS OF THIS DATE, HAS NOT PROVIDED A RULING AND ORDER ON THIS APPEAL, THEREFORE, APPELLANT FILES HIS SUPPLEMENTAL BRIEF.

STATEMENT OF CLAIM

THE COURT, JUDGE ROBERT S. REEVES, VIOLATED APPELLANT'S CONSTITUTIONAL RIGHTS UNDER THE FIRST AND FOURTEENTH AMENDMENTS, SENTENCING APPELLANT TO NO LESS THAN TWELVE (12) MONTHS AT THE POTTER'S HOUSE, JEFFERSON, GEORGIA.

SEE ALSO ARTICLE I, SECTION II, PARAGRAPH VII, OF THE CONSTITUTION OF THE STATE OF GEORGIA. SEPARATION OF CHURCH AND STATE.

THE STATE PROSECUTOR, SAMUEL HAYWARD ALTMAN, WITH THE "INTENT TO HARM" VIOLATED APPELLANT'S FIRST AMENDMENT RIGHTS, AND ENGAGED IN BLATANT CRIMINAL CONDUCT, BY ALLOWING HIS WIFE, CATHY ALTMAN TO AID, AND ASSIST HIM IN THE PROSECUTION OF APPELLANT. SEE T.T. PG. 7, LINE 10, AND PG. 12 LINES 2 THRU 9.

THIS CASE, NO: 07-CR-37, WAS USED TO ENHANCE PUNISHMENT IN CASE NO: 10-CR-109, OCTOBER 17, 2011, IN THE SUPERIOR COURT OF EMANUEL COUNTY, AND CANNOT STAND IN THE INTEREST OF JUSTICE. THEREFORE, THE COURT SHOULD FIND THE ERROR GROUNDS TO REVERSE AND REMAND WITH DIRECTION.

THE STATE, DISTRICT ATTORNEY, SAMUEL HAYWARD ALTMAN, AND ACTING IN CONCERT WITH JUDGE ROBERT S. REEVES, KNOWINGLY CONVICTED APPELLANT TO HIDE AND COVERUP THEIR OWN CRIMINAL ACTS, AND CRIMINAL CONSPIRACY, KNOWN TO APPELLANT.

STATEMENT OF FACTS

THE STATE, DISTRICT ATTORNEY, SAMUEL HAYWARD ALTMAN, IN HIS INDIVIDUAL CAPACITY, USED HIS OFFICIAL CAPACITY AS PROSECUTOR, AND DISTRICT ATTORNEY TO ENGAGE IN CRIMINAL CONDUCT, INCLUDING, BUT, NOT LIMITED TO HIDING CRIMINAL OFFENSE(S): TO WIT: MURDER.

ANY REASONABLE FACT-TRIER, BY DE NOVO REVIEW COULD CONCLUDE APPELLANT'S TRIAL COUNSEL, JAMES COLLINS WAS INCOMPETENT, AND FAILED TO MEET THE PROPER STANDARD OF PERFORMANCE. STRICKLAND V. WASHINGTON 466 U.S. 668 (1984).

CONCLUSION

WHEREFORE, THIS COURT SHOULD REVERSE APPELLANT'S CONVICTION IN THIS CASE.

RESPECTFULLY SUBMITTED, THIS 7TH DAY OF MARCH 2014.

Don Faircloth

DON FAIRCLOTH

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing documents. Service was made by placing the same in an envelope, and with sufficient postage affixed, placed in the U.S. Mail, and on this day mailed to the party(s) as follows:

CLERK; COURT OF APPEALS
SUITE 501
47 TRINITY AVENUE
ATLANTA, GA. 30334

S. HAYWARD ALTMAN;
DISTRICT ATTY.
P.O. DRAWER 590
SWAINSBORO, GA. 30401

This the 7TH day of MARCH, 2014

Don Faircloth PRO SE'

DON FAIRCLOTH GDC# 577853
JOHNSON STATE PRISON
P.O. BOX 344
WRIGHTSVILLE, GEORGIA 31096

Sworn to and subscribed before me this
_____ day of _____, 20_____.

Notary Public or Other Person Authorized to Administer Oaths

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 17, 2014

Mr. Rufus L. Chestnut
GDC422556 M-1-45
Baldwin State Prison
Post Office Box 218
Hardwick, Georgia 31034

RE: A07A1409. Rufus Chestnut v. The State

Dear Mr. Chestnut:

The above appeal was disposed by opinion on October 1, 2007. The Court of Appeals affirmed the decision of the trial court. The remittitur issued on October 19, 2007, divesting this Court of any further jurisdiction of your case. The case is therefore, final in the Court of Appeals of Georgia.

The opinion in the above appeal contains 4 pages and total $6.00. Copies are $1.50 per page in this Court. A pauper status does not excuse you from the copy fees. This Court is not subject to the Open Records Act.

If you are interested in obtaining a copy of this Court's opinion in the above appeal, please send your check or money order to the letterhead address specifying you would like a copy of the opinion be sent to you. Your request will be processed and sent to you by return mail.

I am returning your documents to you.

Sincerely,

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

SEC/ld
Enclosures

Clerk
Georgia Court of Appeals
47 Trinity Ave Suite 301
Atlanta Georgia
3-10-14 30334

To
Mr Phipps.J

This is an response to your decision in my case on the 10-1-07 My Name are Rufus L. Chestnut, Sorry that it take me so long to respond, But the reason is that I has been in and out of Jail and Prison trying to have this case overturn, And last year 2013 When I Find out that you had denied my Motion. And also I had Find out as well that the State did not put all the evidence on the Front lines to prove my not guilty plea to you or the Court And here are some of the reason that I Claim to be false imprisonment. Concerning the relateship between Sylvia Chestnut and me Rufus L Chestnut that the state Claim that we are uncle and Niece. Which are not true at all. My Brother Larry Chestnut whom the state Claim that Sylvia Chestnut's Father and that's not true either My Brother Larry and Sylvia's Mother Shirley Fieldmore Chestnut was divorce in June-6-2001. 5 years before Me. Rufus L. Chestnut and Sylvia Chestnut become lover. Larry Chestnut was in the County Jail for Murder waiting for trail in 1981 of July and why there Sylvia's Mother Shirley F. Chestnut move to valdosta GA With another Man. Whom she was carry an baby by. shirley any Larry had never renew their vow of stay together again. I had ask for an DNA Test to be taking on my Brother and Sylvia But the Court and D.A refuse to take one. The the D.A Never brought out the Divorce at the trail or to you. all the D.A wanted was to send me to prison. here are the Divorce paper that was sign by The same judge that find me guilty for incest. Judge Dwayne Dwayne H. Gillis who also deny every Motions that was file To him. So Whatever Me and Sylvia Chestnut has was an boy and girl friend relateship, not uncle and niece relateship. We both Knew that, that's why we came together as lover because We knew that we are No relater. The Court and My lawyer along

with the D.A stated that they know that My Brother Larry Chestnut is not the biological father of sylvia Chestnut and that they don't need to take an D.N.A Test for that reason. And the Larry Chestnut is not legal father if he has got an divorce from her Mother shirley Chestnut about 6 years before me Rufus Chestnut and Sylvia Chestnut Met, the D.A Claim that Larry Chestnut didn't take any step to deny Sylvia Chestnut as his Child. This piece of paper title divorce will prove deferent. Thank you for your Time out in this serious Matter. I went to Court again in 3 Month of 2013 for not reported Change of address because that name Me as a sex offend for this Charge and I went to jury trail to try to overturn My Case But the judge still said that I was guilty and was giving 30 years sentence to do 5 years in prison with time serve from 7-24-09 in with the 5 years to do max out day will be 7-24-14.

Mr Rufus L. Chestnut #22554
Baldwin State Prison
P.O. Box 218 M-1-45
Hardwick GA 31034
3-10-14

Clerk
Georgia Court of Appeals
47 Trinity Ave Suite 301
Atlanta Georgia
3-10-14 30334

To
Mr Phipps:

This is an response to your decision in my Case on the 10-1-07 My Name are Rufus L. Chestnut, Sorry that it take me so long to respond, But the reason is that I has been in and out of Jail and Prison trying to have this Case overturn, And last year 2013 When I Find out that you had denied my Motion. And also I had Find out as well that the State did not put all the evidence on the Front lines to prove my not guilty plea to you or the Court And here are some of the reason that I Claim to be false imprisonment. Concerning the relateship between Sylvia Chestnut and me Rufus L. Chestnut that the state Claim that we are uncle and Niece. Which are not true at all. My Brother Larry Chestnut Whom the state Claim that Sylvia Chestnut's Father and that's not true either My Brother Larry and Sylvia's Mother Shirley Fieldmore Chestnut was divorce in June-6-2001 5 years before Mr. Rufus L. Chestnut and Sylvia Chestnut became lover. Larry Chestnut was in the County Jail For Murder waiting for trail in 1981 of July and why there Sylvia's Mother Shirley F. Chestnut Move to Valdosta GA With another Man. Whom she was carry an baby by. Shirley any Larry had never renew their vow of stay together again. I had ask For an DNA Test to be taking on My Brother and Sylvia But the Court and D.A refuse to take one. The the D.A Never brought out the Divorce at the trail or to you. all the D.A Wanted was to send me to prison. here are the Divorce paper that was sign by The same judge that find me guilty for incest. Judge Dwayne Dwayne H. Gillis Who also deny every Motions that was file To him. So Whatever Me and Sylvia Chestnut has was an boy and girl friend relateship, not uncle and niece relateship. We Both Knew that. that's why we came together as lover because We knew that we are No relater. The Court and my lawyer along

with the D.A stated that they know that My Brother Larry Chestnut is not the biological father of sylvia Chestnut and that they don't need to take an D.N.A test for that reason. And the Larry Chestnut is not legal father if he has got an divorce from her Mother shirley Chestnut about 6 years before me Rufus Chestnut and Sylvia Chestnut Met, the D.A Claim that Larry Chestnut didnt take any step to deny Sylvia Chestnut as his Child. this piece of paper title divorce will prove deferent. Thank you for your Time out in this serious Matter. I went to Court again in 3 Month of 2013 for not reported Change of address because that name Me as a sex offend for this Charge and I went to jury trail to try to overtual My Case But the judge still said that I was guilty and was giving 30 year sentence to do 5 years in prison with time serve from 7-24-09 in with the 5 years to do max out day will be 7-24-14.

Mr Rufus L. Chestnut #22554
Baldwin State Prison
P.O. Box 218 M-1-45
Hardwick GA 31034
3-10-14

101
Exhibit B

IN THE SUPERIOR COURT OF COFFEE COUNTY

STATE OF GEORGIA

Filed in Office this
6 day of June 2001
Clerk, Superior Court & State Court
Coffee County, Georgia

LARRY CHESTNUT,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION
	§	FILE NO: 2001 S04-0345
	§	
SHIRLEY CHESTNUT,	§	
	§	
Defendant.	§	

FINAL JUDGMENT AND DECREE

Upon consideration of this case upon evidence submitted as provided by law, it is the judgment of the court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case, upon legal principles.

And it is considered, ordered and decreed by the court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and dissolved as fully and effectually as if no such contract had ever been made or entered into, and Plaintiff and Defendant in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract, whatsoever, and both shall have the right to remarry.

The Contract and Agreement entered into by the parties is hereby incorporated into this Final Judgment and Decree and its terms and provisions shall be binding on the parties.

This 6 day of June, 2001.

Dwayne H. Gillis
Judge, Superior Court
Waycross Judicial Circuit

Filed in Office this
29 day of Oct. 09
Angela Scull-Hutto
Clerk, Superior Court & State Court
Coffee County, Georgia

Westlaw.

652 S.E.2d 596
287 Ga.App. 693, 652 S.E.2d 596, 07 FCDR 3134
(Cite as: 287 Ga.App. 693, 652 S.E.2d 596)
C

Court of Appeals of Georgia.
CHESTNUT
v.
The STATE.

No. A07A1409.
Oct. 1, 2007.

Background: Defendant was convicted in the Coffee Superior Court, Boggs, J., of incest with adult niece. Defendant appealed. Because the D.A John Rumker has lie and held back some of the evidences That will Find me not guilty on the Charge that they have against me.

Holding: The Court of Appeals, Phipps, J., held that evidence was sufficient to support conviction.
Not the ones that will had shew you that I'm not guilty
Affirmed. In This case

West Headnotes

[1] Incest 207 ⚷5

207 Incest
207k3 Elements of Offenses
207k5 k. Relationship, and knowledge thereof. Most Cited Cases
Not in this case. There's no uncle and Niece relateship in 3-24-2005

Defendant's brother was legal father of child born to brother's wife while they were married, and thus, uncle-niece relationship existed at time defendant engaged in sexual intercourse with child, as required to support conviction for incest, even though brother was not child's biological father, insofar as brother never brought paternity challenge. West's Ga.Code Ann. §§ 16-6-22(a)(6), 19-7-20. There wasNt any Married between Larry Chestnut And Sylvia Chestnut's Mother Shirley Field More Chestnut at the Time of Sylvia and Rufus Engaged in sexual intercourse. Divorce was done on the 6-1-2001 5 years before Rufus, Sylvia Chestnut met in 3-24-05

[2] Children Out-Of-Wedlock 76H ⚷1

76H Children Out-Of-Wedlock
76HI Status in General
76Hk1 k. Name and status; parental relation in general. Most Cited Cases There was no relateship or Married between Larry Chestnut and Shirley Chestnut Sylvia Chestnut Mother doing The time of Rufus Chestnut and Sylvia Chestnut in 3-24-2005. Love affair.

Parent and Child 285 ⚷1

285 Parent and Child

285k1 k. The relation in general. Most Cited Cases

No relateship between shirley chestnut and Larry Chestnut at that Time 3-24-05

A child's "legal father" is defined as the man married to the biological mother at the time the child was conceived or born, unless such paternity is disproved by final court order. West's Ga.Code Ann. § 19-7-20.

deny Paternity or D.N.A Test in this case. They Claim that they don't NO ONE IN This Case. That knew that Larry Chestnut is not the real Father of Sylvia Chestnut.

**596 John Clayton Culp, for Appellant.

Richard Ernest Currie, Dist. Atty., John Andrew Rumker, Asst. Dist. Atty., for Appellee.

PHIPPS, Judge.

*693 After a stipulated bench trial, Rufus Chestnut was convicted of incest by engaging in sexual intercourse with his adult niece, S.C. Chestnut claims that the trial court erred by applying the presumption of legitimacy provided for in OCGA § 19-7-20 to find an uncle-niece relationship. He also claims that the evidence was insufficient because the state failed to prove the relationship of uncle and niece, as is required for a violation of the Georgia incest statute.[FN1] We **597 conclude that an uncle-niece relationship did exist between Chestnut and S.C. and that the evidence was sufficient to support Chestnut's conviction for incest.

Lie and held back some evidence. To find me guilty.

it would not been IF The D.A would brought the divorce paper up and taking the D.N.A Test on Larry Chestnut

FN1. OCGA § 16-6-22(a)(6) provides that a person commits the offense of incest when the person engages in sexual intercourse with a person to whom he knows he is related by blood or marriage, which includes the relationship of uncle and niece. We knew that there are no relateship between us that can point to us as uncle and niece.

The parties stipulated that the state would produce certain evidence at trial, including that Chestnut knew that S.C. was born to his brother's wife during the course of their marriage and that S.C. was not his brother's biological child. The stipulation also provided that Chestnut's brother had never taken any legal action to challenge S.C.'s paternity. Chestnut had sexual intercourse with S.C. on April 12, 2005. My Brother Larry Chestnut and Sylvia's Mother Shirley chestnut was separated since 1981 and divorce in 2-1-2001 Five years before Rufus Chestnut and Sylvia Chestnut every has sexual intercourse.

The trial court found Chestnut guilty of incest. Relying on Georgia's legitimation statute,[FN2] the court reasoned that even though Chestnut's brother was not S.C.'s biological father, he was her legal father because S.C. was born during the marriage of S.C.'s mother to Chestnut's brother. and during the separation Time. was living with another man in Valdosta GA. when Shirley Chestnut left Douglas GA To Live with.

FN2. OCGA § 19-7-20.

[1][2] "A child's legal father is defined as the man married to the biological mother at the time the child was conceived or born, unless such paternity is disproved by final court order." [FN3] It is undisputed *694 that S.C. was born during the marriage of S.C.'s mother to Chestnut's brother. There is no evidence of a court order disproving paternity. As a

That with the divorce paper which the State refuse to show in Court and refuse to take the D.N.A Test on Larry Chestnut

result, Chestnut's brother was S.C.'s legal father at the relevant time.

FN3. *Baker v. Baker,* 276 Ga. 778, 779(1), 582 S.E.2d 102 (2003) (citing OCGA § 19-8-1(6)); see also OCGA § 15-11-2 (10.1) (B).

Chestnut knew that S.C. was born to his brother's wife during the course of their marriage and that his brother had never legally challenged paternity. He therefore had knowledge that S.C. was his brother's daughter and, hence, his niece. Chestnut stipulated that he had sexual intercourse with S.C. Under these circumstances, a rational trier of fact was authorized to find Chestnut guilty beyond a reasonable doubt of incest.[FN4] why S.C Mother move from Douglas Ga To Valdosta with another man to stay with Why Chestnut's brother Larry was in prison for 15 years for murdery

FN4. *Jackson v. Virginia,* 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979).

This case is distinguishable from *Glisson v. State*[FN5] and *Shabazz v. State,*[FN6] relied on by Chestnut.[FN7] In *Glisson,* this court held that the Georgia incest statute did not prohibit sexual intercourse between a stepgrandfather and stepgranddaughter because those persons were not specifically listed in the statute.[FN8] In *Shabazz,* this court held that the statutory definition of incest did not include sexual intercourse between a male and his stepsister.[FN9] In this case, however, Chestnut and S.C. were uncle and niece, and that relationship is specifically included in the Georgia incest statute.
So IF Larry Chestnut is not the Father legally than He is the Stepfather that IF he has not got an divorce, which he has.

FN5. 188 Ga.App. 152(1), 372 S.E.2d 462 (1988).

FN6. 259 Ga.App. 339(1), 577 S.E.2d 45 (2003).

FN7. Chestnut also relies on *Kemp v. Simpson,* 278 Ga. 439, 603 S.E.2d 267 (2004), a habeas action in which the appellee argued that his trial counsel was ineffective for allowing him to plead guilty for having sexual intercourse with his stepniece because that was not prohibited by the incest statute. The Supreme Court, however, never addressed whether a stepuncle-stepniece relationship was covered by the incest statute. There are No legal against step niece or stepuncle, relateship,

FN8. *Glisson,* supra at 152-153(1), 372 S.E.2d 462.

So IF my brother was still married to Sylvia's mother and He's not the legal father would that mean that He is her step Father and Im her stepuncle, That mean also that the never stated that there are an legal stepuncle and stepniece relateship, which we are not related in any kind way. But Lover that all,

FN9. *Shabazz,* supra.

Judgment affirmed.

JOHNSON, P.J., and MIKELL, J., concur.

Ga.App.,2007.
Chestnut v. State
287 Ga.App. 693, 652 S.E.2d 596, 07 FCDR 3134

END OF DOCUMENT

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 17, 2014

To: Mr. Major A. Clark, GDC1157567, CCA/ Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

Docket Number: A14A1075 **Style**: Major Clark 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 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: **The 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.**

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

IN THE APPEAL COURT FOR THE
STATE OF GEORGIA

Major A. Clark
Appellant,
V.
THE STATE OF GEORGIA,
Appellee.

Appeal Case No. A14A1075

FILED IN OFFICE
MAR 10 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA

AMENDED BRIEF ON
BEHALF OF APPELLANT
Major A. Clark pro se

I. Nature of the case, Ruling Appealed and Jurisdiction

(A) Nature of The Case and Ruling Appealed: This Defendant, Major A. Clark, was accused for the crime of violating special conditions of probation with the following offenses, allegedly which occured at Patten Probation Detention Center:

Failure to Follow Instructions (8 charges)
Unauthorized Possession of Contraband (1 Charge)
Exposure/Exhibition (4 charges)

(See Petition for Modification/Revocation of Probation/Order 9/13/11 and Petition for Modification/Revocation of Probation/Order 10/24/12).

On December 12, 2012, Mr. Clark recieved the following sentence: (a) Revoked four (4) years, credit from 10-29-2012, for the crime of violating special conditions of probation when recieving in house charges that were Disclipinary Reports/Write ups which is not a commission of new felony or a misdemeanor offense. The sentence was constituted upon theory that the Defendant has violated rules and regulations prescribed in his probation sentence, when no rules regulations, conditions, limitations or restrictions were imposed by such sentence or constituted by statutory requirement of O.C.G.A. § 42-8-34.1 (a),(1),(2). (See Petition for Modification/

Revocation of Probation/Order 9/13/11 and Petition for Modification/Revocation of Probation/Order 10/24/12).

(B) Jurisdiction: This Appeal is properly before this Court, rather than the Supreme Court, pursuant to 28 USCA §§ 1291- 1295, because this Defendant does not have a capitol case, and in order for an Appellate Court to review a trial court ruling for legal errors, a party must set forth in the enumerations of errors the allegedly erroneous ruling.

II. Statement of Facts Relevant to this Appeal

State filed petition alleging that Defendant/Appellant had violated terms of his probation. On December 12, 2012 at the Law enforcement center in Americus, Georgia, Judge George M. Peagler, Jr. concluded that Defendant/Appellant had violated his probation and revoked four(4) years, thus requiring him to serve the sentence in confinement.(T. 1-14)

III. Enumerations of Error(s)

I. The sentencing court failed to comply with statute O.C.G.A. § 42-8-34.1 subsection (a),(1)-(2) of this Code section, which provides the requirements for creating a special condition of probation in a sentence.

II. The sentencing court's misapprehension of statute O.C.G.A. § 42-8-34.1 subsection (c) of this Code section, wrongfully sentenced the Defendant/Appellant to a "special alternative incarceration," when the statute does not permit such sentence, whenever a defendant has a " commission of a new felony offense."

IV. Argument and Citation of Authority

I. The sentencing court failed to comply with statute O.C.G.A. § 42-8-34.1 subsection (a), (1)-(2) of this Code section, which provides the requirements for creating a special condition of probation in a sentence.

Condition of defendants probation that he complete the State Probation Detention Center was not a "special condition" of his probation such that trial court was authorized by statute > 42-8-34.1 (a), (1)-(2) to fully revoke probation upon defendants violation of this condition > 42-8-34.1 (e) and order him to serve balance of his sentence in confinement; and original sentencing form failed to distinguish clearly between general and special conditions of probation, and, thus failed to indicate which conditions when violated, required defendant to serve up to the balance of his sentence in confinement. (See Petition For Modification / Revocation of Probation/Order 9/13/11 and Petition For Modification/ Revocation of Probation 10/24/12).

The original sentencing form of October 6, 2011 does not comply with > O.C.G.A § 42-8-34.1 (a), (1)-(2). The term "special condition" is not used on the form, and there is nothing about the form that distinguishes between general and special conditions of probation. Rather, the form is ambiguous. In > Hill, the court made clear that the sentencing form must plainly indicate which conditions are general and which are special.> Hill, 270 Ga. App. at 118-119 (1), 605 S.E. 2d 831.

As the Court in > Hill stated: Since the effective date of the 2001 amendment (July 1, 2001), a trial court must expressly identify special conditions ... and the sentence must provide the probationer with written notice that violation of any special condition authorizes the court to revoke the full balance of probation. > Id. at 119(1), 605 S.E. 2d 831; > O.C.G.A. §42-8-34.1 (a), (1)-(2); > O.C.G.A § 42-8-34.1 (e).

II. The sentencing court's misapprehension of statute O.C.G.A § 42-8-34.1 subsection (c) of this Code section, wrongfully sentenced the Defendant/Appellant to a "special alternative incarceration", when the statute does not permit such sentence, whenever a defendant has a "commission of a new felony offense."

The defendant was illegally sentenced to the State Probation Detention Center in violation of O.C.G.A. § 42-8-34.1 (c) which clearly states: (c) "At any revocation hearing, upon proof that the defendant has violated any general provision of probation or suspension other than by commission of a <u>new felony offense</u>, the court shall consider the use of alternatives to include community service, intensive probation, diversion centers, probation detention centers, special alternatives incarceration, or any other alternative to confinement deemed appropriate by the court or as provided by the state or county. In the event the court determines that the defendant does not meet the criteria for said alternatives, the court may revoke the balance of probation or not more than two years in confinement, whichever is less."

In the defendant/appellant's case the judge was not authorized to consider an alternative method of sentencing at the defendant's revocation hearing because the defendant did not qualify under > O.C.G.A § 42-8-34.1 (c). The statute clearly states: "upon proof that the defendant has violated any general provision of probation or suspension other than by commission of <u>new felony offense.</u>"

In the Appellant's case the defendant did have a "<u>new felony offense.</u>" (See Petition For Modification/Revocation of Probation/ Order under IV. 9/13/11).

" The express mention of an thing in an act or statute implies the exclusion of all other things." > O.C.G.A. § 1-3-1

"In interpreting a statute a court should always turn first (1st) to one, <u>cardinal canon</u> before all others," which is that courts must presume that a legislature says in a statute what it means and means in statute what it says there; and when the words of a statute are unambiguous, then first (1st) canon is also the last; judicial inquiring is complete." > Harris v. Garner 216 F. 3d 11th Cir. (2000).

Final Conclusion

The rationale is that the defendant should have never been sentenced to the State Probation Detention Center > O.C.G.A. § 42-8-34.1(c) in the first place, due to the fact that he had a "commission of a new felony offense."

The Appellant respectfully urges this Honorable Court of Appeals to reverse the wrongfully unconstitutional four(4) year sentence that resulted from the violation of the terms and conditions of his probation, because he [f]ailed to successfully complete the probation detention center program, which was not a "special condition." > O.C.G.A. § 42-8-34.1 (a), (1)-(2); also (See Gamble v. The State, 290 Ga App. 37, 8 FCDR 828, 658 S.E. 2d 785 (2008).

Respectfully Submitted,

Major A. Clark
pro se,

Sworn to and subscribed before me this 10th day of March 2014.

Notary Public:

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

Commission Ex. Date:

Certificate of Service

This is to certify that I have this day a served a true and correct copy of the within and foregoing document(s) upon the party(s) listed below by depositing a copy of the same in the United States mail in a properly addressed enveloped with adequate postage thereon or submitted same to the institutional legal mail system, to bellow addressee(s)

Court of Appeals of Georgia
Suite 501
97 Trinity Avenue
Atlanta, Georgia

This _____ Day of _____, 20 14

Respectfully submitted,
Major A. Clark
Pro Se

~~Signature~~ _____

Print: Major A. Clark

GDC#: 1157567

Address: CCA/CCF
P.O. Box 650
Nicholls, Ga. 31554

To: Stephen E. Castlen
Clerk / Court Adminstrator
47 Trinity Avenue
Suite 501
Atlanta, Georgia 30334

March 11, 2014

Fr: Major A. Clark
CCA / CCF
P.O. Box 650
North Liberty Street
Nicholls, Georgia 31554

RE: Amended Brief on Behalf of Appellant
Appeal Case Number: A14A1075

Dear Stephen E. Castlen / Clerk

I am forwarding you the aforesaid document(s) to transmit to the appropriate parties and file in your office for the record.

I thank you in advance for your time and consideration in this legal matter.

Respectfully Submitted,
Major A. Clark.
prose

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 17, 2014

To: Mr. Norman Davis, GDC1043303, Macon State Prison, Post Office Box 426, Oglethorpe, Georgia 31068
Docket Number: A14A0927 **Style:** Norman Davis 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: **As long as you are represented by an attorney, you cannot file pleadings on your own behalf. 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. 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
The State of Georgia

Norman Davis *
1043303
Appellant *

Case No: A14D927

v.

State of Georgia *
Appellee *

FILED IN OFFICE
MAR 12 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA

An Appeal from the Superior Court
of Decatur County
State of Georgia

Appellants Motion to Dismiss
The Above Styled Appeal No: A14D927

Norman Davis
1043303
Macon State Prison
P.O. Box 426
Dalethorpe Ga. 31068

RECEIVED IN OFFICE
2014 MAR 14 PM 4:33
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

In The Court of Appeals
State of Georgia

Norman DAVIS *
Appellant *
v. *
State of Georgia *
Appellee *

Case No# A14D027

Come now Norman DAVIS. Appellant in the above stylled appeal to move this honor court to dismiss the appeal for cause of this court lack of jurisdiction as follow...

(1.)

The trial court of Decatur County Superior Court denied Appellant's motion for new trial upon order filed Nov 20, 2012.

(2.)

Subsequent Appointed counsel Valerie E. Cochran motion to withdraw as counsel upon Appellants claim of ineffective assistance within a letter dated September 26, 2012: motion to withdraw submitted Nov 28, 2012

(3.)

The trial court held no hearing or issued no order

(4.)

No Notice of Appeal was filed and the 30 days for such expired Dec 20, 2012

(5.)

Appellant submitted a petition for writ of habeas corpus in the Superior Court of Macon County filed March 15. 2013 case # 2013 CV 107

(6.)

Appellant amended his petition filed May 1. 2013 and June 27. 2013 wherein alleged ineffective assistance of Valerie E. Cochran

(7.)

The Attorney General of Georgia Office submitted Return and Answer through Assistant Attorney General Benjamin H. Pierman on Nov 6. 2013

(8.)

Notice of Hearing was filed Aug 26. 2013

(9.)

Subsequent on November 14. 2013 the Macon County Superior Court held a hearing on the grounds for writ of habeas corpus, whereat Petitioner testified in rebuttal of the states testimony by Valerie E. Cochran.

(10.)

The Macon County requested proposed finding of fact and conclusions of law is due by Petitioner on March 17. 2014 and the State's 30 days subsequent too.

(11.)

Subsequent to the Macon County November 14. 2013 Hearing

The trial court of Decatur County filed order Nov 15. 2013 denying Valerie E Cochran motion to withdraw

Subsequent the Decatur County trial court filed order Nov 18, 2013 wherein ordered Valerie E. Cochran to file an out of time appeal by December 16th 2013 and diligently pursue said appeal.

On Nov 19, 2013 Valerie E. Cochran submitted her second motion to withdraw.. upon Defendant's claim of ineffective assistance of counsel..

On Dec 9th 2013 the trial court of Decatur County filed a order wherein granted Ms Cochran second motion to withdraw and removed as counsel for the Defendant. And further ordered Mr Michael Tarleton be appointed as Valerie E. Cochran failed to file an out of time appeal as allowed by the (Decatur County) court.

Law

When new counsel enters the case the same opportunity must lie after the motion for new trial pursued by trial counsel has been denied and before appeal is taken. OCGA §5-5-41 affords that opportunity for motion for new trial. Wherefore Appellant requested upon letters dated Dec 16, 2013 and Jan 2, 2014 addressed to Mr Tarleton to motion first in the trial to afford appellant opportunity to be heard in the trial court with new appointed counsel before filing a notice of appeal. However Mr Tarleton failed thereby deprived appellant his right to a hearing upon a claim of Ineffective assistance Deloach v. State 198 Ga App 880, 403 SE 2d 866 (1991) mandates a hearing be held upon a ineffective claim. However on several occassion the court by appellant's letter and counsel's motion was thereby informed of such claim but failed to hold hearing in violation of Const. Art. 1. §1. Par. 14 US CA Const amend 6.

Following the compelled direction of the trial court violates Appellants right of effective representation. The even more serious denial of the entire judicial proceeding itself which a defendant wanted at the time and which he had a right, similarly demands a presumption of prejudice. United States v. Cronic, 466 U.S. 648, 659, 80 LEd 2d 657, 104 S.Ct 2039 Therefore appellant raise a claim of ineffective assistance upon Michael W. Tarleton in this honor court whereas shown within this motion to dismiss.

Conclusion

Not withstanding the foregoing claim of ineffective assistance of Michael W. Tarleton, This court lack jurisdiction to hear appeal upon merits of Mr Tarleton's enumeration of errors, because the trial court of Decatur County lacked jurisdiction to order the appointment of new counsel and appeal. After the 30 days expired from notice of appeal of its Nov 20, 2012 filed order denying Appellants motion for new trial. And subsequent to the Macon County habeas court holding a Nov 14, 2013 hearing upon the same issue; now on appeal.

All subsequent orders by the trial court of Decatur County is void and Mr Tarleton taking of this instant appeal No# A14D0D7 is nugatory.

In 287 Ga 414 Davis v. The State June 28, 2010, 696 SE 2d 644 the Supreme Court held that matters litigated in a habeas proceeding are collaterally estopped from being re-litigated elsewhere. Spiller v. State 282 Ga 351 (2) 647 SE 2d 64 (2007). See: Simmons v. State, 276 Ga 525, 526-27, 579 SE 2d 735 (2003).

The trial court of Decatur County has ordered irregular judgment subsequent to the Macon County habeas hearing held Nov 14. 2013. This render the instant appeal to be entered contrary to the manner of practice and procedure allowed by law in some material respect. Whereas the Georgia Supreme Court is the court of proper jurisdiction of habeas issues on appellate review.

Therefore Appellant request that the instant appeal be dismiss.

This 5th day of March 2014
Norman Davis

Norman Davis 1043305
Macon State Prison
P. O. Box 426
Calethorpe. Ga 31068

Submitted under penalty of perjury.
Norman Davis

Certificate of Service

This is to certify that I Norman Davis has served the foregoing motion to dismiss the instant appeal by deposit the true and correct copy through U.S. mail with sufficient postage and proper address upon: Joseph Mulholland
D.A. South Georgia Circuit
P.O. Box 1870
Bainbridge, Ga 39818

This 5th day of March 2014
Norman Davis

Norman Davis
1043303
Macon State Prison
P. O. Box 426
Oglethorpe, Ga 31068

Norman Davis
1043303
Macon State Prison
P.O. Box 426
Dalethorpe Ga 31068

To: Stephen E. Castlen, Clerk
Clerk and Court Administrator
Court of Appeals of Georgia
334 State Judicial Building
Atlanta, Ga 30334

Date: March 4, 2014
Re: Davis v. The State Appeal No: A14D927

Dear Mr Castlen,

Please find enclosed Appellant's motion to dismiss the above styled appeal.

Please file the same upon proper order of this honorable court. Thank You!

This 5th day of March 2014
Norman Davis
Norman Davis
1043303
Macon State Prison
P.O. Box 426
Dalethorpe, Ga. 31068

C.C. D.A. of Decator County
Appellant Attorney Michael W. Tarleton Esq. GPDSC

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

March 17, 2014

To: Mr. Dexter L. Bowen, GDC564278, Spalding County Correctional Institution, 295 Justice Boulevard, Griffin, Georgia 30224

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 clerk of the trial court.

☑ **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 a 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 it 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 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 be actually 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

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

Dexter Lamont Bowen,
Defendant.
vs.
STATE OF GEORGIA

CASE NO. 2010-CR-00749-5

NOTICE OF APPEAL

NOTICE IS GIVEN THAT DEXTER LAMONT BOWEN IN THE ABOVE MATTER HEREBY APPEALS TO THE COURT OF APPEALS OF GEORGIA FROM THE JUDGEMENT OF THE TRIAL COURT ENTERED ON THE 28th DAY OF FEBRUARY 2014.

THE CLERK WILL OMITT NOTHING FROM THE RECORD ON APPEAL A TRANSCRIPT OF EVIDENCE & PROCEEDING WILL FILED FOR INCLUSION IN THE RECORD ON APPEAL. IN ADDITION DEFENDANT ASK FOR DOCUMENTS TO INCLUDE BUT NOT LIMITED TO:

1.) THE COPY OF THE MOTION TO SET ASIDE JUDGEMENT & THE ORDER DISMISSING IT.

THE COURT OF APPEALS RATHER THAN THE SUPREME COURT HAS JURISDICTION OVER THIS DIRECT APPEAL BECAUSE THE ISSUES INVOLVED & APPEALS OF SUCH CASE ARE NOT RESERVED TO THE SUPREME COURT OF GEORGIA PURSANT TO ARTICLE VI, SECTION VI, PARAGRAPHS II & III OF THE CONSTITUTION OF THE STATE OF GEORGIA.

THIS 11th DAY OF MARCH 2014.

RESPECTFULLY SUBMITTED
DEXTER L BOWEN

IN THE SUPERIOR COURT OF Clayton County
STATE OF GEORGIA

Dexter Lamont Bowen | Docket NO: 2010CR00749-5
V/S
STATE OF GEORGIA

Motion to set Aside Judgement.

Comes now, Dexter L. Bowen, Pro se & the defendant in the above styled & number case pursant to the 4th, 5th, 6th, 8th, 9th & 14th Amendants to the united states constitution. Article 1, section 1, paragraph 1, II, III, VII, XIII, XIV, XVI, XVII, XVIII, XXII, & XXVIII, of the Georgia constition of 1983: O.C.G.A.§§ 17-9-4, 17-2-1 (A) & any & all other applicable state & federal laws, constitution laws, & controlling case precedents & pursuant to O.C.G.A. § 5-5-1, power to grant relief & O.C.G.A. § 9-11-60 (A) (D) (1), (2), (3), (F) Relief from Judgement interlocutory in character as pertaining to the followi issue:

1

Ground #1

The defendant states that his arrest warrants was predicated upon a unconstitutional statue, namely O.C.G.A. §17-4-41)

The defendant argues that the affidavit & warrant known as arrest warrants that were issued for his arrest lacks the required showing of probab. cause needed to be legal.

Article 1, section 1, paragraph 13, of the Georgia Constitution & the fourth amendment to the US. Constitution provides in parts,

" The right of the people to be secure in their persons... against unreasonable searches & seizures, shall not be violated, & no warran shall be issued but upon (probable cause) supported by oath or affirmation".

In Pitts v. State, 432 S.E. 2d 643 (1993) The Georgia supreme court clear explained the nature & purpose of probable cause in arrest warrants holding: "O.C.G §17-4-41 does not address probable cause but requires a "specific description of the crime to include the answers to the questions when, where, against whom. & what probable cause answers the threshold question, why do you believe this occured? That is on what you base your belief? "emphasis added."

The answer to this question is what the arrest warrants & accompanying affidavits for the defendants arrest lacks.

APPLICABLE LAW

PURSUANT & CONSISTENT WITH THE STATE CONSTITUTION & THE UNITED STATES CONSTITUTION SEE O.C.G.A. 17-2-1 (A) THE STATE FAILED TO TAKE JURISDICTION WHEN THE STATE FAILED TO APPLY THE APPLICABLE LAW, THE STATE CONSTITUTION & THE CONSTITUTION, THEN THE STATE HAS FAILED TO GAIN LEGAL JURISDICTION OVER THE PERSON WHOM HAS ALLEGEDLY COMMITTED A CRIME OF THIS STATE. THUS THE PERSON SENTENCE IS THEN & THEREFORE VOID & MAY BE SO HELD IN ANY COURT WHEN IT BECOME TO THE INTEREST OF THE PERSON TO CONSIDER IT. SEE O.C.G.A. 17-9-4.

THEREFORE AFTER THE STATE HAS FAILED TO LEGALLY GAIN JURISDICTION OVER AN INDIVIDUAL THEN THERE IS NO APPLICABLE STATUE WHICH PRESCRIBE A SENTENCE THERE ON. HAVE & AGAIN, ~~[illegible]~~ THERE LACK OF JURISDICTION OVER THE PERSON & SUBJECT MATTER IS VOID FOR THIS CAUSE: O.C.G.A. 17-9-4)

PURSUANT TO O.C.G.A. 17-10-3 A SENTENCE CAN ONLY BE IMPOSED UPON ANY INDIVIDUAL WHEN LEGAL ADJUSTICATION OF GUILTY IN A COURT HAVING JURISDICTION SUCH JURISDICTION WAS NOT LEGALLY GAINED OVER THIS PETITIONER RENDERING A VOID SENTENCE.

In Duhart v. United States 476 F 2d 597 (1973) states it is settled that to justify an arrest must be valid see Henry v. United States 361 US. 98, 102, 80 S. Ct 168. 14. L.E. 2d 134 (1959) see also Giordenello v. United States. 357, US 480, 18, S. Ct. 1245 2L. Ed 2d 1503 (1958). where it was held that a incident to an arrest which was based on a illegally issued warrant may not be sustained since search & seizure issue can now be properly raised on motion to vacate or "set aside judgement."

It follows that were such motion alleged an illegal search & seizure based on an incident to a illegal arrest, consideration of the illegal arrest is within the ambit of Kaywan v. United States, 394 U.S. 217, 89, S. Ct, 1068, 22 L. Ed 2d (1969), decision & is not any extension there of, also see Eggleston v. United States 448 F. 2d 354 (1971) claim of unconstitutional search & seizure is cognizable in proceeding to vacate sentence.

The failure to pursue jurisdiction on prescribed by both the state constitution Art. 1 sec. 1 par. 13 & the fourth amendment of the united state constitution the sentence is void.

Pursuant to & in accordance with O.C.G.A. 17-9-4, which provides the judgement of a court when it becomes material to the interest of the party to consider it, without any court having original jurisdiction over the petitioner by way of the constitutional guaranteed guide line any impose conviction or sentence must be set a side.

In Garmon v. Lumpkin County Georgia 878 F. 2d 1406 held when the warrant issue & arrest occurs before an indictment is handed down however the question is whether probable cause existed for the arrest must be answered by reviewing the facts that were before the magistrate accordingly, support in this case for finding probable cause must be found in the affidavit accompanying the application from the warrant of Giordenello 357 US. At 487-78 S. Ct. At 1250. in absence of an indictment probable cause for arrest based on facts sworn to in complain in federal criminal proceedings ac subsequent indictment does not retro actively provide probable cause for an arrest that has already taken place, this without sufficient probable cause for the arrest of the defendant, invalidates each subsequent indictment & mandate that the sentence be vacated or set aside sentence is void due to invalid arrest warrants & any evidence obtained is part of the "fruit of the poisonous tree" & sentence must be vacated or "set aside"

Ground #2

ON August 24, 2011 the defendant did in fact enter a plea of guilt in the said Court the charges in which he was sentenced to 4 5 years to serve. Although, the defendant did enter a guilty plea because of Ground 1 in this motion to set aside judgement, The plea is invalid because the state failed to legally gain jurisdiction over the defendant, then there is no applicable statute which prescribe a sentence there on. Then & again, there is lack of jurisdiction, ~~[illegible]~~ over the persc & subject matter is void for this cause (O.C.G.A. 17-9-4) Pursant to O.C.G.A. 17-10-3.

A sentence can only be imposed upon any individual when legal adjudication of guilt in a court having jurisdiction, such jurisdiction was not legally gained over the defendant rendering a invalid plea & sentence. Therefore this plea & sentence must be set aside for the forgoing reason(s).

Ground #3

Ineffective Assistance of Trial Counsels

Trial counsel was ineffective because she failed to make minimal inquiries which would have revealed that the defendants arrest was predicted on warrants issue without showing of probable cause.

To establish ineffective assistance of counsel. (A) defendant must show that the deficient performance prejudiced his defense: Strickland v Washington, 466 U.S. 688, 687 (104 S.Ct. 2d 2052 (2064 80 L.E. 2d 674 (1984) Smith v. Francis, 253 Ga. 782, 784 (325 S.E. 2d 362) cert. denied 474 U.S. 925 (106 S. 260, 88 L.E. 2d 266) (1985) Gross v. State 262 Ga. 232, 233 (1) 416 S.E. 2d 284. In measuring the assistance rendered by trial counsel every effort's must be made to eliminate the distorting effects of hindsight & evaluate trial counsel conduct from counsel perspective at the time. Also trial counsel is entitled to a strong presumption that her conduct, Baines v. State 201 Ga. App. 354, 355, (1) 356, 411 S.E. 2d 211.

The duty to conduct an investigation of the possible avenues of defence is tempered by practical restraints it is not realistic to expect trial counsel to investigated all plausible line of defense instead the trial counsel's knowledge & experience is to be utilized in determining which line of defense receive the greater effort, Southerton v. State 205 Ga. App. 366, 367, 42 S.E. 2d 251, Baines State 201 Ga. App 354, 355, (Lit) 411 S.E. 2d 95. Supra

Therefore it was unreasonable for counsel not to make minimal inquires which would have revealed that the arrest of the defendant was predicated on a warrant issued without any showing of probable cause before the issuing magistrate, The warrant for the defendant arrest were apparently issued soley on the basis of the attached affidavits which although statisfying the requirement of O.C.G.A. 17-4-41, did not supply the magistrate with sufficent information, to support an independant judgement that probable cause existed for issuance of the warrant.

Had counsel properly investigated this case & applied the law the out come of this whole proceedings would've been different. Wherefore the defendant ask that this court grant his motion to set aside judgement

Respectfully Submitted

(6)

Dexter L. Bowen

Anita L. Bowen

Notary Public, Spalding County, Georgia
My Commission Expires Dec. 12, 2015

COPY

FILED
CLAYTON CO., GA
2014 FEB 28 PM 3:00
JACQUELINE C. WILLS
CLERK SUPERIOR COURT

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	Case No. 2010-CR-00749-5
	§	
DEXTER LAMONT BOWEN,	§	
	§	
Defendant.	§	

ORDER ON DEFENDANT'S MOTION TO SET ASIDE JUDGMENT

On February 19, 2014, the Defendant submitted a Motion To Set Aside Judgment of guilty plea and sentence, in the above-styled case. The Defendant entered a negotiated plea of guilty to the offenses of Aggravated Assault, Terroristic Threats, Assault of Unborn Baby, Battery, and Aggravated Battery on August 24, 2011, and was sentenced to five (5) years to serve on each count, to run concurrent. The Defendant's plea was entered in the August, 2011, term of court and the Defendant filed this motion during the February, 2014, term of court.

This Court does not have jurisdiction to entertain the Defendant's motion due to the fact that the term of court in which the plea was entered has expired. See Ellison v. State, 283 Ga. 461, 660 S.E.2d 373 (2008) The term of Court in which the Defendant entered his guilty plea ended the first Monday of November, 2009 and, this motion was filed after that term of court ended. In that the Court does not have the authority to consider the Defendant's motion, the Defendant's request to proceed in forma pauperis is moot.

It is hereby ORDERED the Defendant's Motion to Set Aside Judgment is DISMISSED as untimely.

SO ORDERED THIS 28TH DAY OF FEBRUARY, 2014.

Albert B. Collier
Judge Superior Court
Clayton Judicial Circuit

CERTIFICATE OF SERVICE

I, LuAnn West, Judicial Assistant for The Honorable Albert B. Collier, do hereby certify that I have this day served the enclosed pleading or document entitled **ORDER ON DEFENDANT'S MOTION TO SET ASIDE JUDGMENT**, Case No. 2010-CR-00749-5, by mailing a copy of same with adequate postage affixed thereto to:

FILED
CLAYTON CO., GA
2014 FEB 28 PM 3:00
JACQUELINE SCARBILLS
CLERK SUPERIOR COURT

CLAYTON COUNTY DISTRICT ATTORNEY'S OFFICE
9151 Tara Boulevard - 4TH Floor
Jonesboro, GA 30236
(Via Inter-Office Mail)

Dexter Lamont Brown, #564278 (Dorm 1, #31)
SPALDING COUNTY CORRECTIONAL INSTITUTION
295 Justice Boulevard
Griffin, GA 30224

This 28TH day of February, 2014.

LuAnn West
Judicial Assistant *For*
The Honorable Albert B. Collier

The Harold R. Banke Justice Center
9151 Tara Boulevard - Room 4JC401
Jonesboro, GA 30236
770.477.3495

IN THE _____ COURT OF APPEALS COUNTY

STATE OF GEORGIA

Dexter L. Bowen *

* Case No. 2010 CR 00 7495

vs *

State of Georgia *

MOTION TO PROCEED IN FORMA PAUPERIS

I, Dexter L. Bowen, hereby move this court for leave to proceed without payment of costs or posting security. In support of this motion, I certify Under penalty of Perjury that I am a State Prison inmate, that I am unable to pay costs or post security, but I believe in good faith that I am entitled to the relief I am seeking.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT PURSUANT TO 28 U.S.C.A. 1746.

Respectfully submitted this the 12 day of March 2014.

Dexter Lamont Bowen
Defendant/Plaintiff Pro-Se

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 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, properly addressed upon:

_____
_____
_____
_____
_____

Notary Public, Spalding County, Georgia
My Commission Expires Dec. 12, 2015

Certificate of Service

This is to certify that I have, this day, served a true and correct copy of the foregoing motion to _____.

Jacqueline D. Wills
Clerk Superior Court
9151 Tara Boulevard, ICL25
Jonesboro, GA 30236-4912

GA. Court of Appeals
47 Trinity Ave. St.
Ste 501
Atlanta GA 30334

This 11th day of March, 2014.

Dexter Lamont Bowers
#564278 / Dorm 1 #31
295 Justice Boulevard
Griffin, GA 30224
Pro Se

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 17, 2014

To: Mr. Michael P. Bradley, GDC939047 B-2, Telfair State Prison, Post Office Box 549, Helena, Georgia 31037

Docket Number: A14A1136 **Style**: Michael P. Bradley 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)

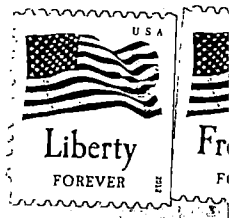
16. ☐ Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)

17. ☐ The Motion to Supplement has not been granted.

18. ☑ Other: **The Appellant's Brief that was filed with the Supreme Court of Georgia was transferred with your appeal. The attached Brief of Appellant is being returned to you.**

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

Michael P. Bradley GDC# 939047
Telfair State Prison B-2
P.O. Box 549
Helena, Ga. 31037



Office of the C
Court of Appeals
Suite 501
47 Trinity Av
Atlanta, Ga. 30

In the Court of Appeals of Georgia

Michael Paul Bradley Appellant	:	Case No. A14A1136
v.	:	
State of Georgia	:	Direct Appeal from the Superior Court of Morgan County - Case No. 1996CC168

BRIEF OF APPELLANT

Michael Paul Bradley
Appellant | Pro Se

EF # 381082 GDC # 939047
Telfair State Prison
P.O. Box 549
Helena, Ga. 31037

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STATEMENT OF JURISDICTION

Upon an 'Order' passed by the Supreme Court of Georgia, Case No. S14A0618, Filed in office, January 27, 2014.

the Appellant's 'Direct Appeal' had been transferred to the Court of Appeals of Georgia for review.

In the Court of Appeals of Georgia

Michael Paul Bradley Appellant	:	Case No. A14A1136
v.	:	
State of Georgia	:	Direct Appeal from the Superior Court of Morgan County - Case No. 1996CC168

BRIEF OF APPELLANT

STATEMENT OF CASE

The Appellant, Michael Paul Bradley, was indicted in Greene County, Georgia, on April 24, 1996, by the Prosecuting Attorney Mr. Fredric D. Bright, of the Ocmulgee Judicial Circuit.

Thereafter, the Appellant was 'Again' indicted on June 3, 1996, in Morgan County Georgia, by the same said Prosecuting Attorney, involving the same case, same transaction.

Appellant was "FIRST" prosecuted in Morgan County, through a Jury Trial, July 18, 1997, thus being convicted and sentenced on all '3' Counts.

The Appellant was taken to Court in

Greene County, February 16, 1998, thus being prosecuted through a Prosecution/Plea Bargain SECONDLY, and being sentenced for the lesser included offenses of Appellant's Murder charge in Morgan County.

Appellant's Case was Appealed from Morgan County, and the Supreme Court had Reversed the Appellant's convictions for Armed Robbery and Hijacking A Motor Vehicle offenses, due to improper venue, September 2000. (Bradley v. State, 272 Ga. 740, 533 S.E.2d 727 (2000)).

The Appellant had Filed a "Motion For Fast and Speedy Trial" in the Superior Court of Greene County, Filed in office, October 28, 2013, thus, being the County of Original Jurisdiction over the Appellant's Case, Seeking a Proper Indictment in accords to O.C.G.A. § 16-1-7(b) on this Entire Case, due to a pending Hijacking A Motor Vehicle warrant.

The 'State' Filed a Response as a 'Motion to Dismiss', dated October 29, 2013, in Morgan County, thus being granted by the Court on November 12, 2013.

It is from this decision that the Appellant Files this Appeal.

STATEMENT OF FACTS

On March 18, 1996, a Warrant For Murder was executed against the Appellant in Morgan County. Thereafter, on April 17, 1996, a Warrant for kidnapping, and a Warrant For Hijacking A Motor Vehicle were executed against the Appellant in Greene County.

On April 24, 1996, the Appellant was indicted by Grand Jury, in Greene County, for kidnapping with bodily injury, Aggravated Assault, and Criminal Attempt to Commit theft by taken (Motor Vehicle), conducted by the Prosecuting Attorney, Mr. Fredric D. Bright.

Thereafter, on June 3, 1996, the Appellant was 'Again' indicted by Grand Jury, in Morgan County, for Murder (while in the commission of to wit: kidnapping), Armed Robbery, and Hijacking A Motor Vehicle, conducted and handled by the same said Prosecuting Attorney, Mr. Fredric D. Bright, in violation of O.C.G.A. § 16-1-7(b).

On October 29, 1996, the Honorable Chief Judge William A. Prior, Jr. had signed an "ORDER", upon the Prosecuting Attorney's presentment of the Appellant's Entire Case, both Morgan County and Greene County, thus allows the Prosecuting Attorney to violate State Statutory Law of O.C.G.A. § 16-1-7(b), therefore, violating O.C.G.A. § 16-1-7(c) (Himself), upon appointing Judge John Lee Parrott to be

assigned to 'Both Cases', Morgan County and Greene County, which had to be "ONE" Single Indictment/Prosecution, in accords to O.C.G.A. § 16-1-7(b).

On November 27, 1996, the Appellant was taken to Arraignment in Morgan County, whereas the Prosecuting Attorney had failed to file a 'Nolle Prosequi' to the Greene County Indictment/Prosecution, thus proceeding with the Morgan County Case, in violation of O.C.G.A. § 16-1-7(b).

The Appellant was prosecuted on the Morgan County Indictment/Prosecution through a Jury Trial, July 18, 1997, in violation of O.C.G.A. § 16-1-7(b), therefore leaving the Greene County Case pending.

Upon the Appellant's Case being Appealed in Morgan County, and venue being contested, the Appellant was taken to Court in Greene County, February 16, 1998, whereas being shuffled through a Prosecution/Plea Bargain, in violation of O.C.G.A. § 16-1-7(b) and § 16-1-8(b), conducted and handled by the same said Prosecuting Attorney, Mr. Fredric D. Bright, as the lesser included offenses of Appellant's Murder charge in Morgan County.

During the Appellant's Appeal through the Supreme Court of Georgia, and upon the Court's

'Order' (September 2000), the Court had Affirmed the charge of Felony Murder, without the essential Facts or charge of an underlying Felony, but had Reversed the convictions for the Armed Robbery and Hijacking offenses, due to improper venue.

The Court stated in it's 'Order', that the Appellant May be Re-Tried in the proper county (Greene County), for the Armed Robbery and Hijacking offenses, therefore, placing the Appellant's Case at risk of being Re-Opened, Re-Indicted, and Re-Tried, under the 'Statute of Limitations', and in accords to State Statutory Law of O.C.G.A. § 16-1-7(b), for "ALL" offenses through both Morgan County and Greene County.

Accordingly, to the Supreme Court of Georgia's Reversal, thus Reactivate's the Hijacking A Motor Vehicle Warrant, which had been obtained and executed in Greene County on April 17, 1996, and the Appellant's Case being placed under the 'Statute of Limitations' of the Superior Court of Greene County.

the Appellant has a Murder charge involved in the Case as well, thus extends that 'Statute of Limitations' beyond No limited period, for the Prosecuting Attorney to seek a Correct Indictment in accords to O.C.G.A. § 16-1-7(b), at Anytime.

ENUMERATION OF ERROR

The Appellant, Michael Paul Bradley, had Filed a 'Motion For Fast and Speedy Trial', in the Superior Court of Greene County, thus being the County of Original Jurisdiction, seeking a Proper Indictment in accords to O.C.G.A. § 16-1-7(b), and in concerns of a pending Hijacking A Motor Vehicle Warrant.

The Appellant has [2] two Indictments / Prosecutions being in violation of O.C.G.A. § 16-1-7(b), conducted and handled by the same Prosecuting Attorney, Mr. Fredric D. Bright, under Full knowledge, involving the same case, and the same transaction, alleged in Both Indictments of Greene County and Morgan County.

Due to the Supreme Court of Georgia's 'Ruling', (September 2000), thus Reactivates a Hijacking A Motor Vehicle Warrant, originally obtained and executed in Greene County, April 17, 1996.

therefore, upon the Court's Ruling, thus places the Appellant's Case under the 'Statute of Limitations' of the Superior Court of Greene County, (Prosecuting Attorney's Office), to be able to Re-Open, Re-Indict, and Re-Try the Appellant's Case, in accords to O.C.G.A. § 16-1-7(b), Properly.

ARGUMENT AND CITATION OF AUTHORITY

The Appellant, Michael Paul Bradley, had filed a "Motion For Fast and Speedy Trial", in concerns of His 'Case' of both Greene County (Case No. 96-CR-181) and Morgan County (Case No. 96-CC-168), both being in the same Judicial Circuit, in violation of O.C.G.A. § 16-1-7(b), conducted and handled by the Prosecuting Attorney, Mr. Fredric D. Bright.

SEE GENERALLY, O.C.G.A. § 16-1-7(b) . . .

Upon the Appellant's Case being presented to the Court in Morgan County, the Honorable Chief Judge William A. Prior, Jr. had signed an "ORDER", October 29, 1996, which thus allows the Prosecuting Attorney to violate State Statutory Law of O.C.G.A. § 16-1-7(b), therefore, violating O.C.G.A. § 16-1-7(c) Himself, by appointing Judge John Lee Parrott to be assigned to Both Cases, which had to be ONE Single Indictment / Prosecution in accords to O.C.G.A. § 16-1-7(b).

The Appellant was tried and convicted in Morgan County, July 18, 1997, through a complete violation of O.C.G.A. § 16-1-7(b), and upon the Appellant's Case being Appealed

in Morgan County, and venue being contested due to the Armed Robbery and Hijacking offenses having occurred in Greene County,

the Appellant was taken to Court in Greene County, February 16, 1998, thus being shuffled through a Prosecution/Plea Bargain by the Prosecuting Attorney, Mr. Fredric D. Bright, in violation of O.C.G.A. § 16-1-7(b) and § 16-1-8(b), as the lesser included offenses of Appellant's Murder charge, in Morgan County.

SEE O.C.G.A. § 16-1-7(b) and O.C.G.A. § 16-1-8(b) ...

SEE GENERALLY, Perkinson v. State, 273 Ga. 491, 542 S.E.2d 92 (2001) ...

During the Appellant's Appeal through the Supreme Court of Georgia (September 2000), and upon the Court's 'Final Order', the Court had Reversed Armed Robbery and Hijacking A Motor Vehicle, due to 'improper venue', thus having Affirmed the Murder charge, as Felony Murder, without the essential Facts or charge of an underlying Felony,

Bradley v. State, 272 Ga. 740, 533 S.E.2d 727 (2000).

The Court stated in its 'Order', that the Appellant may be Re-Tried in the proper county (Greene County), for the Armed Robbery and Hijacking offenses, therefore placing the Appellant's Case under the 'Statute of Limitations' of the Superior Court of Greene County (Prosecuting Attorney's Office), to be able to Re-Open, Re-Indict, and Re-Try the Appellant's Case, in concerns and accords to O.C.G.A. § 16-1-7(b).

Due to a Murder charge involved in the Case as well, thus extends that 'Statute of Limitations' beyond No Limited period, for the Prosecuting Attorney to Properly Re-Indict the Appellant's Case in accords to O.C.G.A. § 16-1-7(b).

thus giving the Superior Court (Prosecuting Attorney), the Jurisdiction and Authority to commence a 'LEGAL' Indictment/Prosecution under O.C.G.A. § 16-1-7(b), at Anytime.

SEE, O.C.G.A. § 17-3-1.
SEE GENERALLY, O.C.G.A. § 16-1-7(b) ...

The Appellant had filed a "Motion For Fast and Speedy Trial" in concerns of a Proper Re-Indictment, through the Superior Court of Greene County, in accords and pursuant to

O.C.G.A. § 16-1-7(b), and in concerns of a pending 'Hijacking A Motor Vehicle Warrant', due to the Supreme Court of Georgia's Reversal (September 2000).

Bradley v. State, supra.

The Appellant, Michael Paul Bradley, having filed a 'Motion For Fast and Speedy Trial' in Greene County, whereupon the Prosecuting Attorney had Originally vested jurisdiction over the Appellant's Case.

Accord, Griffin v. State, 266 Ga. 115, 464 S.E.2d 371 (1995).

See Also, O.C.G.A. § 16-1-7(b).

The State argue's that the Supreme Court had affirmed a judgment on the Morgan County Case, Case No. 96-CC-168, thus Filing a remittitur to the Court, pursuant to O.C.G.A. § 5-6-9, Formally signaling the end of litigation on the case, and that the Court has no jurisdiction.

Upon the 'State's Response', and in accords to O.C.G.A. § 5-6-9 and pursuant to O.C.G.A. § 5-6-10, this Fails to confirm any allegation of ending it's litigation in the instant case.

Accord, Chambers v. State, 262 Ga. 200, 415 S.E.2d 643 (1992).

Furthermore, this does not create any limitations upon the authority of the Superior Court's to Correct, Vacate, or Modify a Judgment, due to an illegal Indictment/Prosecution being in violation of Constitutional or Statutory Provisions.

SEE O.C.G.A. § 15-6-8 and § 15-6-9(8); Accord, Zant v. Brantley, 261 Ga. 817, 411 S.E.2d 869 (1992); Ga. Const. 1983, Art. VI, Sec. 1, Par. IV.

The Appellant had Filed a 'Motion For Fast and Speedy Trial' in the Superior Court of Greene County, October 28, 2013, due to the Original Jurisdiction over the Appellant's Case.

Morgan County had No Jurisdiction over it's said Case, Case No. 96-CC-168, or has Jurisdiction over the Appellant's 'Motion For Fast and Speedy Trial', Filed in the County of Original Jurisdiction, (Greene County).

thus seeking a Proper Indictment in accords to O.C.G.A. § 16-1-7(b), of the Appellant's Entire Case, due to a pending Hijacking a Motor Vehicle Warrant, originally obtained and executed in Greene County, April 17, 1996, thus being Reactivated by the Supreme Court of Georgia's Reversal.

CONCLUSION

The Appellant prays that the Honorable Court will grant His Appeal, and Remand His Case back to the Superior Courts for Further review, or what may be necessary upon the Court's own actions.

Respectfully Submitted,

Michael P. Bradley

Appellant / Pro Se

Submitted By:

Michael P. Bradley EF# 381082 GDC# 939047
Telfair State Prison
P.O. Box 549
Helena, Ga. 31037

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing "BRIEF IN SUPPORT", for the Appellant's Appeal from the Superior Court of Morgan County, (Case No. 96-CC-168), upon the following, by U.S. Mail:

- Office of the Clerk
  Court of Appeals of Georgia
  Suite 501
  47 Trinity Avenue
  Atlanta, Ga. 30334

- Department of Law
  40 Capitol Square
  Atlanta, Ga. 30334-1300

This 11th day of March, 2014.

PATRICIA ANN WILCOX
NOTARY
EXPIRES
GEORGIA
MAY 13, 2016
PUBLIC
TELFAIR COUNTY

Respectfully Submitted,

Michael P. Bradley

Michael P. Bradley
Appellant / Pro Se

Respectfully

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 19, 2004

Mr. Napoleon S. Balsh
Lumpkin County Jail
385 East Main Street
Dhalonega, Georgia 30533

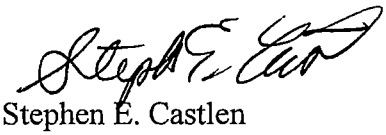
Dear Mr. Balsh:

I am in receipt of your letter of postmark date March 17, 2004. Please be advised that an appeal from an order revoking your probation must be made by Discretionary Application filed directly with the Court of Appeals of Georgia. The Court will require a stamped filed copy of the order you are appealing and copies of so much of the record as you think the Court of Appeals will need to review in order to reach the determination that the trial court committed reversible error.

We do not have forms for informa pauperis filings. Basically, you will need to swear before a notary public that you are unable to pay the $80.00 filing fee and sign the affidavit and have the affidavit signed, dated and sealed by the notary public and attach that as an exhibit to your application. The application must be filed with the Court of Appeals of Georgia within 30 days of the date of the entry of the order or the judgment you are appealing.

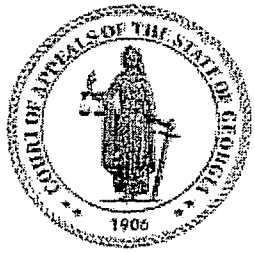
I have enclosed a copy of the Rules of the Court of Appeals of Georgia for your review. If you would like a copy of the Court's Citizen's Guide (for sample forms), you will need to have a friend or relative download it from our website at: www.gaappeals.us. The Court of Appeals does not provide forms for persons practicing before this Court.

Sincerely,



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

SEC/ld
Enclosure



2014

Georgia Court of Appeals

RULES

Last Update: February 19, 2014

MARCH 17, 2014
MONDAY

TO: THE CLERK OF COURT
OFFICE:
47 TRINITY AVE, S.W.
ATLANTA GA
30334

FROM: MR. NAPOLEON GOLD BAGH
385 E. MAIN ST
LUMPKIN COUNTY JAIL
DAHLONEGA, GA, 30533,

NOW COMES NAPOLEON GOLD BAGH
IN A REQUEST FOR A NOTICE
OF APPEAL APPLICATIONS PLEASE
SO THAT I CAN FILE A APPEAL
ON A PROBATION REVOCATION THAT
TOOK PLACE ON MARCH 12, 2014
BEFORE THE DEADLINE COME
INTO PLAY WHICH WILL BE
ON APRIL 12, 2014 I WOULD LIKE

TO FILE MY APPEAL WITH COURT PLEASE
CAUSE THE TRIAL COURT WENT OVER
THE GUIDELINE ON A REVOCATION
NO NEW CHARGE ARE NOTHING JUST
A VIOLATION OF A GENERAL CONDITION
AND THE TIME FOR THE VIOLATION
DON'T FIT THE PUNISHMENT OF
ALL SO I NAPOLEON SOLO BUSH
WOULD LIKE TO APPEAL UNDER
O.C.G.A. 5-6-35(a)(5) PLEASE
SO WILL YOUR OFFICE PLEASE
SEND ME APPEAL APPLICATION
SOON IT HAS A OPPORTUNITY A.S.A.P.
PLEASE THANKS!! ....

RESPECTFULLY

NAPOLEON SOLO BUSH

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 19, 2014

To: Mr. Robert N. Doyle, GDC399103, Johnson State Prison, Post Office Box 344, Wrightsville, Georgia 31096

Docket Number: A14A1005 **Style:** Robert Norman Doyle 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 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

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

IN THE COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

ROBERT NORMAN DOYLE,	
APPELLANT,	
V.	APPEAL CASE NO: A14A1005
THE STATE,	
APPELLEE.	LOWER COURT CASE NO: 04CR008

BRIEF OF APPELLANT

APPELLANT, ROBERT NORMAN DOYLE FILED A MOTION TO VACATE VOID JUDGMENT, CHALLENGING HIS MARCH 31ST, 2006, GUILTY PLEA CONVICTION, THE COURT, CHIEF JUDGE, KATHY S. PALMER, IN "CLEAR ERROR", ON THE 3RD DAY OF JANUARY, 2014, DISMISSED (DEFENDANT'S) APPELLANT'S MOTION, APPELLANT, TIMELY FILED HIS NOTICE OF APPEAL, DOCKETED BY THE CLERK, SUPERIOR COURT OF CANDLER COUNTY ON THE 15TH DAY OF JANUARY, 2014.

STATEMENT OF THE CASE

APPELLANT, ON THE 31ST DAY OF MARCH, 2006, ENTERED A GUILTY PLEA (NEGOTIATED), FOR THE OFFENSE OF: SALE OF COCAINE.

APPELLANT'S PRIOR CONVICTIONS WAS USED TO ENHANCE PUNISHMENT, PURSUANT TO O.C.G.A. §17-10-7 (C).

APPELLANT WAS SENTENCED TO A TERM OF TEN(10) YEARS IMPRISONMENT, WITHOUT PAROLE.

APPELLANT WAS REPRESENTED BY LORENZO MERITT ATTORNEY AT LAW.

STATEMENT OF JURISDICTION

THIS COURT HAS JURISDICTION TO CONSIDER THE APPEAL PURSUANT TO ARTICLE VI, SECTION V, PARAGRAPH III, OF THE CONSTITUTION OF THE STATE OF GEORGIA.

ENUMERATION OF ERRORS

1.

APPELLANT'S FOURTH AMENDMENT RIGHTS WERE VIOLATED, AS A FIRST COURT APPEARANCE WITHIN 72 HOURS WAS NOT PROVIDED

2.

APPELLANT WAS DENIED DUE PROCESS AND EQUAL PROTECTION OF THE FIFTH AMENDMENT AS THE PROSECUTION FAILED TO BRING THE ACCUSATION BEFORE A GRAND JURY FOR INDICTMENT.

3.

APPELLANT WAS DENIED A MENTAL COMPETENCY HEARING PURSUANT TO: O.C.G.A. § 17-7-130; AND; O.C.G.A. § 17-7-130.1.

4.

APPELLANT'S COUNSEL FAILED TO PROVIDE ANY ACTUAL ASSISTANCE, FAILED TO MEET THE PROPER STANDARD FOR ATTORNEY COMPETENCE.

5.

APPELLANT'S PRIOR CONVICTIONS FAILED TO MEET THE REQUIREMENTS TO IMPOSE RECIDIVIST PUNISHMENT, PURSUANT TO O.C.G.A. § 17-10-7 (c).

6.

APPELLANT IN PREPARING THIS APPEAL WAS DENIED ACCESS TO AN ADEQUATE SUPPLIED, PROPERLY STAFFED PRISON LAW IN VIOLATION OF THE FIRST AMENDMENT.

ARGUMENT AND CITATION OF AUTHORITY

APPELLANT WAS ARRESTED, AND CHARGED WITH THE SALE OF COCAINE, THE ARRESTING AND INVESTIGATING OFFICERS, FAILED TO PROTECT APPELLANT'S FOURTH AMENDMENT RIGHTS AS HELD BY THE UNITED STATES SUPREME COURT IN MIRANDA V. ARIZONA, 384 U.S. 436, 86 S.CT. 1602, 16 L.Ed. 2d 694 (1966). SEE ALSO ARTICLE I, SECTION I, PARAGRAPHS I AND II, OF THE CONSTITUTION OF THE STATE OF GEORGIA.

APPELLANT WAS DENIED DUE PROCESS AND EQUAL PROTECTION, AS THE PROSECUTION FAILED TO PRESENT THE ACCUSATION TO A GRAND JURY TO BRING A VALID INDICTMENT.

THE TRIAL COURT COMMITTED AN ERROR THAT WAS NOT HARMLESS, BY DISPOSING OF A CASE WITHOUT A VALID INDICTMENT, WHERE SUBJECT MATTER JURISDICTION WAS NOT ESTABLISHED, CONTRARY TO O.C.G.A. § 17-7-54. SEE ALSO O.C.G.A. § 17-2-2(a); AND WEATHERBED V. STATE, 271 GA. 736, 737, 738 (1994).

IN HUBBARD V. STATE, 225 GA. 154 (1997), THE COURT HELD THAT "A VOID JUDGMENT IS IN REALITY, NO JUDGMENT AT ALL, IT IS A MERE NULLITY, IT IS ATTENDED BY NONE OF THE CONSEQUENCES OF A VALID ADJUDICATION, NOR IS IT ENTITLED TO THE RESPECT ACCORDED TO ONE".

APPELLANT WAS DENIED DUE PROCESS, AS INVESTIGATORS, NOR THE TRIAL COURT CAUSED, OR SUBJECTED APPELLANT TO A MENTAL COMPETENCY HEARING OR EXAMINATION, WHEN IT WAS WELL-ESTABLISHED THAT APPELLANT'S MENTAL HEALTH ISSUES WERE CLEARLY APPARENT. SEE TRIAL TRANSCRIPTS; O.C.G.A. § 17-7-130, AND O.C.G.A. § 17-7-130.1. SEE ALSO WHITE V. STATE, 202 GA. APP. 291, 414 S.E. 2d 328 (1992).

THE RECORDS OF THIS CASE IS CLEAR, APPELLANT WAS DENIED ADEQUATE TRIAL COUNSEL IN VIOLATION OF THE SIXTH AMENDMENT, AND THE SUPREME COURT'S HOLDING IN STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984).

APPELLANT'S PRIOR CONVICTIONS FAILED TO MEET THE REQUIREMENTS TO IMPOSE RECIDIVIST PUNISHMENT PURSUANT TO O.C.G.A. § 17-10-7 (c).

THIS WAS PROPERLY ADDRESSED BY THE SUPREME COURT OF GEORGIA IN: BECKWORTH V. STATE, 281 GA. 41, 637 S.E. 2d 769 (2006).

APPELLANT, IN PREPARING HIS APPEAL (THIS BRIEF), WAS DENIED ACCESS TO A PROPERLY STAFFED, ADEQUATELY SUPPLIED PRISON LAW LIBRARY, AS HELD PROPER, AND MANDATED BY THE SUPREME COURT IN BOUNDS V. SMITH, 430 U.S. 817 (1977); AND, LEWIS V. CASEY, 518 US 343 (1996). U.S.C.A. 1ST AND 14TH.

STATEMENT OF CLAIM

APPELLANT'S GROUNDS FOR APPEAL OF HIS CONVICTION CAN BE TAKEN FROM THE RECORDS OF THE CASE, AND THE SUPPORTING CITATIONS OF LAW IN APPELLANT'S BRIEF.

THIS COURT'S PREVIOUS RULINGS, AND THE RULINGS OF THE HIGHER COURT'S, SUPPORTS APPELLANT'S APPEAL OF HIS UNCONSTITUTIONAL CONVICTION AND SENTENCE.

THEREFORE, THIS COURT HAS AN IMPOSED DUTY TO REVERSE APPELLANTS CONVICTION, AS STATED.

CONCLUSION

APPELLANT, FOR THE REASONS STATED, RESPECTFULLY ASKS THE COURT TO REVERSE HIS IMPOSED CONVICTION.

RESPECTFULLY SUBMITTED, THIS 10TH DAY OF MARCH, 2014.

Robert Norman Doyle

ROBERT NORMAN DOYLE

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing documents. Service was made by placing the same in an envelope, and with sufficient postage affixed, placed in the U.S. Mail, and on this day mailed to the party(s) as follows:

CLERK; COURT OF APPEALS
SUITE 501
47 TRINITY AVENUE
ATLANTA, GA. 30334

DISTRICT ATTORNEY;
200 COURTHOUSE SQUARE
SUITE 1
LYONS, GA-30436

This the 10TH day of MARCH, 2014

x Robert N. Doyle PRO SE'

ROBERT N. DOYLE GDC# 399103

JOHNSON STATE PRISON

P.O. BOX 344

WRIGHTSVILLE, GEORGIA 31096

Sworn to and subscribed before me this
_____ day of _____, 20____.

Notary Public or Other Person Authorized to Administer Oaths

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 27, 2014

To: Mr. Carlos Espinal, GDC1274856, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Docket Number: A14A0835 **Style:** Carlos Saravia-Espinal 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)

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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.**

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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)

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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
State of Georgia

Carlos Saravia-Espinal, Appellant,	Appeal No. A14A 0835
v.	
State of Georgia, Appellee	

Motion For Stay of Remittur

Comes now Carlos S. Espinal, Appellant in the above-named, and respectfully moves this Honorable Court to grant a stay of remittur pursuant to Rule 40 (a) of the Rules of the Georgia Court of Appeals, 2014.

Appellant requests this stay as a writ of certiorari is currently before the Supreme Court of Georgia.

Respectfully submitted this 24th day of March, 2014.

Carlos Saravia-Espinal

Carlos Saravia-Espinal, Pro se

Certificate of Service

I hereby certify I have sent a Stay of Remittur to the Georgia Court of Appeals by U.S. Postal Service, mailed to:

Georgia Court of Appeals
Suite 501
47 Trinity Ave.
Atlanta, Ga. 30334

Carlos S. Espinal, Pro se Carlos Espinal
Wheeler C.F.
P.O. Box 466
Alamo, Ga. 30411

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 19, 2014

Mr. Elliott Jay Franklin
GDC149083
Washington State Prison
Post Office Box 206
Davisboro, Georgia 31018

Dear Mr. Franklin:

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. 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 Certificate of Service must accompany your Notice of Appeal. It must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must be actually 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.

I am returning your documents to you.

Sincerely,

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

SEC/ld
Enclosures

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA	§	
	§	
VS.	§	CASE # 2000 CR 955-1
	§	
ELLIOTT JAY FRANKLIN	§	
PETITIONER	§	
- - - - - - - - - -	§	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT ELLIOTT JAY FRANKLIN, defendant IN THE ABOVE styled CASE, HEREBY APPEALS TO THE COURT OF APPEALS OF GEORGIA FROM THE JUDGEMENT OF PRO SE PETITION TO VACATE VOID (SIC) CONVICTION AND SENTENCE FROM THE ABOVE-NAMED defendant FILED ON FEBRUARY 3, 2014 AND AFTER REVIEWING THE pleadings, FILE, AND APPLICABLE STATUTORY AND CASE LAW, THE COURT HEREBY DENIES defendant's PETITION ON FEBRUARY 28, 2014.

THE OFFENSES FOR WHICH THE defendant WAS CONVICTED WERE POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE, POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE, AND OBSTRUCTION OF OFFICER (MISDEMEANOR). THE defendant RECEIVED SENTENCES OF 20 YEARS TO SERVE, AS A RECIDIVIST; 10 YEARS PROBATION, CONSECUTIVE; AND 12 MONTHS TO SERVE.

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF PETITION TO VACATE VOID CONVICTION AND SENTENCE BASED OF FRAUD, VIOLATION AND /OR INTENTIONAL NON-DISCLOSURE /DECEPTION, AND LACK OF PERSONAL OF SUBJECT MATTER JURISDICTION.

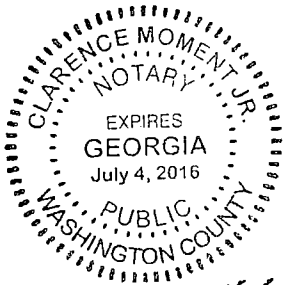
As an appeal from a criminal conviction which is not among those reserved by state law to the Supreme Court of Georgia, appellate jurisdiction resides in the Georgia court of appeals under Georgia constitution, article VI, section V, paragraph III.

Nothing should be omitted from the record on appeal.

Defendant's affidavit of poverty will be forwarded to the clerk upon receipt.

This 10 day of March, 2014.

Respectfully submitted:



3-10-14

Elliott Jay Franklin, GDC# 149083
Washington State Prison
P.O. Box 206
Davisboro, GA 31018

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

V.S.

ELLIOTT JAY FRANKLIN
PETITIONER

CRIMINAL ACTION.
NO. 2000-955-1

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE SERVED A TRUE AND CORRECT COPY OF THE FOREGOING NOTICE OF APPEAL BY DEPOSITING A COPY OF SAME IN THE UNITED STATES POSTAL SYSTEM WITH ADEQUATE POSTAGE AFFIXED THERETO TO INSURE DELIVERY, ADDRESSED AS FOLLOWS:

LINDA D. HAYS, CLERK
NEWTON COUNTY SUPERIOR COURT
NEWTON COUNTY JUDICIAL CENTER
1132 USHER STREET-ROOM 338
COVINGTON, GEORGIA 30014

COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA

THIS 10 DAY OF MARCH, 2014.

CLARENCE MOMENT JR.
NOTARY PUBLIC
EXPIRES
GEORGIA
July 4, 2016
WASHINGTON COUNTY

3-10-14

ELLIOTT JAY FRANKLIN, GDC# 149083
WASHINGTON STATE PRISON
P.O. BOX 206
DAVISBORO, GA 31018

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 27, 2014

Mr. Victor Callahan
GDC80623 J1-39
Valdosta State Prison
Post Office Box 310
Valdosta, Georgia 31603

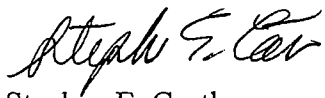
Dear Mr. Callahan:

I am in receipt of the Extraordinary Motion for New Trial. An Extraordinary Motion for New Trial is filed in the trial court. It is appealed to the Court of Appeals of Georgia by Discretionary Application under OCGA §5-6-35.

The Court of Appeals of Georgia will need a stamped filed copy of the order you are appealing. Also, pursuant to Rule 1(a), a proper Certificate of Service must accompany all pleadings in this Court. The Certificate of Service is not to the Clerk of the Court of Appeals, but to the district attorney who is the prosecuting officer.

I am returning your documents to you.

Sincerely,



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

SEC/ld
Enclosures

The Court of Appeals of Georgia

Victor Callahan

v

The State

Case no: SU-98-CR-0680

Motion to Vacate or Correct Illegal Sentence and Extraordinary Motion for New Trial.

Come now the petitioner in the above style case make this appeal to the Superior Court of Athens Clarke County denial of petitioner Motion to Vacate or Correct Illegal Sentence and Extraordinary Motion for New Trial.

Petitioner filed his motion on Jan 8th, 2014 and was denied Jan 24, 2014. On Feb 13th, 2014 petitioner appeal to the Court of Appeals of Georgia for the following reasons:

(1)

The petitioner contends that he was never arraigned under indictment number SU-98-CR-0680;

(2)

That the Court can not produce the transcript that support the Court reading of the indictment informing the petitioner of the charges against him;

(3)

That the Court not not produce any arrest warrants that shows petitioner ever being arrested;

(4)

THE PETITIONER CONTEND THAT HE DID NOT SIGN THE INDICTMENT WHICH IS DATE JULY 23rd. 1998 AND THAT THE TRIAL TRANSCRIPT WHEN PETITIONER ENTERED HIS NOT GUILTY PLEA WILL SHOW THESE FACTS;

(5)

THE PETITIONER CONTEND THAT HE WAS SENTENCE UNDER GEORGIA CODE STATUE O.C.G.A. 17-10-7: WHICH CLEARLY REPEATED OFFENDER;

(6)

THE PETITIONER CONTEND THAT UNDER THIS STATUE 17-10-7 ONE IS ELIGIBLE FOR PAROLE;

(7)

THE PETITIONER CONTEND THAT O.C.G.A. 17-10-7(b)(2) IS THE CORRECT STATUE FOR A PERSON SENTENCE UNDER THE RECIDIVIST;

(8)

THE PETITIONER CONTEND THAT THIS IS THE FIRST ORDER HE HAVE EVER RECIEVED DENING HIS EXTRAORDINARY MOTION FOR NEW TRIAL.

CITATIONS OF AUTHORITY:

THE ONLY FORMAL ARRAIGNMENT NECESSARY IS READING THE INDICTMENT TO THE ACCUSED AND THE ENTERING OF DEFENDANT'S PLEA OF NOT GUILTY. CLARK V STATE 226 SE2d 89 (1976)

THE STATE HAS AN INDICTMENT SIGNED BY THE PETITIONER, NOW PRODUCE THE TRANSCRIPT TO SHOW THE READING OF THE INDICTMENT INFORMING PETITIONER OF THE CHARGES.

until arraignment or a waiver thereof there can be no jury impaneled and no placing of the defendant in jeopardy. Hardwick v State 200 SE2d 728 (1973)

The record can only corroborate the signature on the indictment by showing that the reading of the indictment, following the not guilty plea was entered on July 23rd 1998.

17-10-7: Punishment of repeat offenders; punishment and eligibility for parole of persons convicted of fourth felony offense

Petitioner contend that the court was without jurisdiction to sentence petitioner life without parole since petition was not sentence under 17-10-7(b)(2) nor 17-10-6.1 but 17-10-7.

Furtherly, the court claim that this is the petitioner third extraordinary motion filed but does support these facts with any documentation.

Wherefore petitioner moves that these grounds for his motion for appeal be inquired into by this court upon a hearing on this matter or the merits. And that he be grant a new trial.

This 18th day of March 2014

Victor Callahan

CERTIFICATE OF SERVICE:

I do hereby certify that I have this day served the within and foregoing Appeal of the denial of motion to Vacate or Correct Illegal Sentence and Extraordinary Motion for New Trial, prior to filing the same, by depositing a copy thereof, postage prepaid, in the United States Mail, properly addressed upon:

The Court of Appeals for Georgia
334 State Judicial Building
Atlanta Georgia 30334

This 18th Day of March 2014

Victor Callahan

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 27, 2014

Mr. David Hutchings, Jr.
Clerk, Thomas County State Court
225 North Broad Street
Post Office Box 1995
Thomasville, Georgia 31799-1995

RE: Your Court Case Number: 12CV32
Alan Seago v. Estate of Berry Earle, III

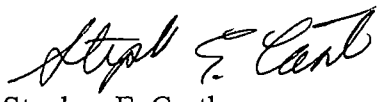
Dear Mr. Hutchings:

Enclosed please find the record in the above appeal. The Index in the record needs to be corrected and a clerk's certification added to the record before returning the record to this Court. It would be helpful to the Court if the filing dates were added to the Indices.

If you have any questions, please do not hesitate to contact this office.

Also, I have enclosed a copy of the *Guide for Trial Court Clerks in Transmitting Records to the Court of Appeals of Georgia* for your review .

Sincerely,



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

SEC/ld
Enclosures

GUIDE FOR TRIAL COURT CLERKS IN TRANSMITTING RECORDS TO THE COURT OF APPEALS OF GEORGIA

The Clerk's Office of the Court of Appeals of Georgia appreciates the assistance of the trial court clerks in preparing records for docketing in our Court. These guidelines will assist in the preparation of records and transcripts for transmission to this Court. We hope this information will be helpful to you and avoid our having to return records and transcripts to your offices. If you have any questions regarding these guidelines or in the preparation of any record or transcripts for this office, please feel free to call Patty Bender, (404) 657-8353 or Stephen E. Castlen, (404) 651-8498. We will be happy to assist you.

PREPARING THE RECORD FOR TRANSMISSION

1. Create a complete Index of the record. Number the pages consecutively, and do not make a separate index for each volume of the record. The items of the records should be arranged as follows: the Index, Notice of Appeal and/or amended Notice of Appeal and record documents arranged in chronological order. It is very helpful if you place the date of the order or motion next to all orders and motion titles. The transcript(s) may be listed at the end of the record index.

2. The Notice of Appeal should be on 8 ½ x 11 inch, letter sized paper, and should show the name of the attorney or pro se party (typed or printed legibly) and his/her address. An attorney's bar number should be placed below his/her name or with the address. Make sure the Notice of Appeal has a legible stamped "filed" date and has a proper Certificate of Service showing the full name and complete mailing address of opposing counsel. We cannot accept a general rubber stamp as a proper Certificate of Service.

   The Notice of Appeal when prepared by the attorney or pro se party should state to which court he/she is appealing, the Court of Appeals or the Supreme Court, the order(s) to be appealed and any documents he/she wishes omitted from the record. In the Notice of Appeal, the Court appealed to and the Court having jurisdiction must agree. A clear statement transcripts **ARE** or **ARE NOT** to be transmitted must be included.

3. The Notice of Appeal should show the name of the attorney representing the appellant or the name of the appellant, if he/she is pro se, and show his/her full address, telephone number, and bar number, if applicable. Again, a Certificate of Service must accompany the Notice of Appeal and must show the full name and complete mailing address of opposing attorney or pro se party. This is necessary because we get the addresses of the parties from the address on the Notice of Appeal and the Certificate of Service. Please try to impress upon any pro se parties filing a Notice of Appeal a telephone number should accompany the address, and the address of the opposing pro se party, if possible.

RECORDS RETURN NOTICE

DATE 3/20/14

Style Alan Seago v. Estate of Berry Earle III

Lower Court Thomas State

Lower Court Case NO. 12CV32

REASON:

	No/improper certificate of Service
	Improper Notice of Appeal
	Order not stamped filed
	Transcripts
	Notice of Appeal not stamped filed
	No Index/Improper Index
	Not properly assembled
	Main/Cross/Companion in same record
	Pages not numbered
	No appealable order in record
	No order on Motion for New Trial
	No Motion for New Trial (have order thereon)
	Order not signed by Judge
	No Notice of Appeal after Order granting Out of Time
	Notice of Appeal does not state to which Court Appealed or Appealed to one/jurisdiction to other
	Pages copied front/back
	Only one side printed of duplex document
✓	Other per Mr. Hutchinson - please return index to be corrected + clerks certification to be added -

also please send guide for clerks -

It would be helpful to Court, if filing dates were added to index.

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 27, 2014

Mr. Baker Edman Clark
GDC388790
Augusta State Medical Prison
3001 Gordon Highway
Grovetown, Georgia 30813

Dear Mr. Clark:

The enclosed Brief was hand carried to our office on March 25, 2014. We were told it was a Motion, but upon inspection, this is the Appellant's Brief. Our office cannot accept the Brief without the required $80.00 filing fee or a sufficient pauper's affidavit, pursuant to Rule 5 of this Court's Rules. The pauper's affidavit should be notarized by a notary public.

Please resubmit your Brief with the required fee or a sufficient pauper's affidavit.

Sincerely,

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

SEC/ld
Enclosures

TO: STEPHEN E. CASTLEN, CLERK OF THE COURT OF APPEALS

FROM: BAKER EDMAN CLARK, INMATE

REF.: Baker Edman Clark v. State of Georgia, A14A1221 and A14A1227

Dear Mr. Castlen,

My name is Edman Clark and I am acting **Pro Se** in the appeal of my conviction out of Fulton County Superior Court. I am currently serving a 20 year sentence, and have no funds with which to pay the $80.00 filing fee.

I arranged for someone to file my appellant brief on docket number A14A1221 as well the appeal of the denial of my motion on docket number A14A1227, however, when she arrived at your office on the morning of May 25, 2014, she was told that I had not paid the filing fee, therefore, I could not file my documents.

I am indigent and have no funds by which to pay the filing fee. May intention is to prepare a Pauper's affidavit, here out at the prison, and mail it out to the Court of Appeals, as soon as possible. Therefore, I am requesting a fourteen (14) day extension of time for submission of the Appellant brief (A14A1221), as well as the appeal of the denial of my motion (A14A1227), rendering said Appellant brief and appeal of the denial of my motion due on April 10, 2014.

Thank you for your consideration in this matter.

Sincerely,

Baker E. Clark (GD)

Baker Edman Clark

G.D.C.# 388790
3001 Gordon Highway
Augusta State Medical Prison
Grovetown, Georgia 30813

TO: STEPHEN E. CASTLEN, CLERK OF THE COURT OF APPEALS

FROM: BAKER EDMAN CLARK, INMATE

REF.: Baker Edman Clark v. State of Georgia, A14A1221 and A14A1227

Dear Mr. Castlen,

My name is Edman Clark and I am acting **Pro Se** in the appeal of my conviction out of Fulton County Superior Court. I am currently serving a 20 year sentence, and have no funds with which to pay the $80.00 filing fee.

I arranged for someone to file my appellant brief on docket number A14A1221 as well the appeal of the denial of my motion on docket number A14A1227, however, when she arrived at your office on the morning of May 25, 2014, she was told that I had not paid the filing fee, therefore, I could not file my documents.

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Thank you for your consideration in this matter.

Sincerely,

Baker E. Clark (GB)

Baker Edman Clark

G.D.C.# 388790
3001 Gordon Highway
Augusta State Medical Prison
Grovetown, Georgia 30813

Original

A14A1227

IN THE

COURT OF APPEAL

STATE OF GEORGIA

BAKER EDMAN CLARK,

Appellant, Pro Se

v.

STATE OF GEORGIA,

Appellee

Appeal of Lower Court's denial of Appellant's Motion to Amend and Correct the Trial Transcript

COMES NOW, Baker Edman Clark, Appellant, pro se, in the above-styles action and files this, his brief, in support of his appeal from the denial of the Motion to Amend and Correct the Trial Transcript. Appellant show this Court the following:

Statement of Facts

Appellant was tried and convicted by a jury in the Fulton Superior Court on August 10, 2007, for the offenses of aggravated assault (2 counts), terroristic threats (2 counts) and possession of a firearm in the commission of a felony. Appellant was sentenced to 20 years to serve 15 years on both counts of aggravated assault charges, 5 years to serve on both counts of terroristic threats, with all sentences running concurrent with each other, and 5 years for possession on a firearm in the commission of a felony running consecutive and suspended.

On September 12, 2007, Appellant filed a Motion for New Trial, along with a Motion for the Trial Transcript. In June 2009, Appellant received a copy of his trial transcript, however, after reading the transcript he discovered that the transcript was incorrect. On June 23, 2009, Appellant filed a Motion to Amend

and Correct Trial Transcript, and requested a hearing to resolve the matter. After numerous requests for a hearing and a ruling on the motion, the trial judge refused to hold a hearing or issue a ruling. Therefore, 4 years later Appellant had no other choice but to seek relief by petition for a writ of Mandamus, to compel the trial court to hold a hearing or issue a ruling on the Motion to Amend and Correct the trial transcript. Thereafter, the trial judge refused to permit the filing of the Petition for Writ of Mandamus, and dismissed the petition with prejudice because the trial court had scheduled a hearing on the Motion to Amen d and Correct the Trial Transcript. On April 26, 2013, the trial court conducted a hearing on the motion and on September 16, 2013, the motion was denied.

Argument and Citation of Authority

1. The Trial Judge Abused her Discretion By Waiting 4 Years Before Holding a Hearing on Appellant's Motion to Amend And Correct the Trial Transcript

Pursuant to O.C.G.A. 15-6-21 (b), the Superior court has 90 days to hold a hearing or issue a ruling on all motion presented to it. When this is not done, the trial judge has abused her discretion and violates O.C.G.A. 1506021 (b).

Also, O.C.G.A. 5-6-41 (f), mandates a hearing on a motion to correct a trial transcript. In Parrott v. State, 134 Ga. App. 160, 214 S.E. 2d 3 (1975), the Court of Appeals held that a defendant is denied his right to an effective appeals because of the lack of a correct transcript of his trial.

In the case at bar, Appellant, after receiving a copy of trial transcript in June 2009, found out that the transcript was incorrect. On June 23, 2009, he fild a Motion to Amend and Correct the Trial Transcript, and requested an evidentiary hearing o the same. See (Motion to Amend and Correct the Trial Transcript). The trial judge waited 4 years before holding a hearing o the motion and issuing a ruling, notwithstanding the numerous requests made by Appellant. This 4 year delay in time not only violated O.C.G.A. 15-6-21 (b), but it also prevented appellant from proving the allegations set out in the Motion to Amend and Correct the Trial Transcript, because witnesses who could have testified at the motion hearing have since died (MT. 5-7, Oct. 24, 2013). As a result, Appellan has been denied his right to an effective appeal, because he does not have a correct and complete transcript of trial. Parrot, Surpra.

Appellant alleged in the body of his motion to amend and correct the trial transcript that portions of the charge to the jury had been omitted. Since it was the jury who received and heard the charge, Appellant requested the trial court to allow him to subpoena the jury for the hearing on the motion. However, the trial judge denied the motion stating that the jury would not remember what occurred during the trial. (MT. 20-21, April 26, 2013). Appellant is hard pressed to understand how the trial judge would be in the position to know what the jury would remember. Appellant's trial counsel testified at the hearing that he remembered the trial judge charging the jury on the entire code section of aggravated assault. (MT. 33, April 26, 2013). O.C.G.A. 5-6-41 (f), establishes the procedure for resolving the issue of incorrect transcript, which would allow the parties to come together and resolve the issue from recollection. However, that could not be done because the Assistant District Attorney who tried the case no longer works there and cannot be located. (MT. 29, April 26, 2013). The trial judge apparently does not remember what took place, since she ruled that the jurors would not remember it. (MT. ___, April 26, 2013).

Appellant subpoenaed the court reporter who transcribed the trial and requested that she bring the back-up tapes with her. However, the court reporter testified at the hearing that she sometime use audio tapes for her backup, but did not use one at appellant's trial , Additionally, the court reporter

testified that she relied on steno notes, which cannot serve as a back up for her transcription, because what if her notes are incorrect. (MT. 24, April 26, 2013), Therefore, the procedure set out in O.C.G.A5-6-41 (f) has vanished due to the long delay in holding a hearing on Appellant's Motion to Amend and Correct the Trial Transcript.

When a trial judge gives a charge on the entire code section of aggravated assault, normally it is an error. However, when there are evidence adduced at trial that support the un-alleged manner of committing the crime, there is the probability that a defendant was convicted of committing the crime in a manner that he was not charged with. See Levin v. State, 222 Ga. App. 123, 127 (1996) (holding that error arises if the indictment specifies the commission of a crime by only one of several methods possible under the statute and a reasonable probability exists that the jury convicted the defendant of committing the offense in a manner not charged in the indictment). This omission from the trial transcript is crucial to Appellant's appeal.

The portion of the aggravated assault code section that was omitted are as follows:

O.C.G.A. 16-5-21 (a) A person commits the offense of aggravated assault when he or she assaults:

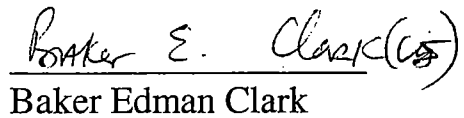
(1) With intent to murder, to rape or to rob;

(2) Or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury.

In the case at bar, during appellant's trial, there was evidence adduced that appellant told the victim that he would kill him. (T. 225, 229). That appellant left and came back and shot one of the victim (T. 225), and that his wound was life threatening. (T. 273-274). This evidence clearly support the manner of committing the offense of aggravated assault "with intent to murder". A manner of committing aggravated assault that Appellant was not indicted for, which leaves the probability that appellant was convicted of aggravated assault on both counts, in a manner that he was not charged with. Levin, supra. The trial judge in refusing to hold a hearing or issue a ruling on Appellant's motion until 4 years after he filed it was a gross abuse of discretion. As a result, appellant was denied his right to an effective appeal and to due process, and as a result, is entitled to a new trial. Parrot, supra.

WHEREFORE, because of the foregoing reasons, Appellant prays that this Court grant this appeal and direct the trial court to give Appellant a new trial, and any other or further relief this Court deems proper and just.

This the 25 day of March, 2014.



Baker Edman Clark
GDC# 388790
Augusta State Medical Prison
3001 Gordon Highway
Grovetown, Georgia 30813

Certificate of Service

This is to certify that I have this date served the District Attorney of Fulton County with a copy of the foregoing Brief of Appellant, pro se, by placing the same in an envelope addressed to the address listed below, with the proper postage attached thereto depositing in the United States Mail.

This the 25 day of March, 2014.

Baker E. Clark (pro se)

Baker Edman Clark

G.D.C.: 388790
3001 Gordon Highway
Augusta State Medical Prison
Grovetown, Georgia 30813

Mailed to:
Paul Howard, Jr.
District Attorney, Fulton County
Fulton County Courthouse
136 Pryor Street, S.W.
Atlanta, Georgia 30303

The Court of Appeals
Office of the Clerk
47 Trinity Avenue
Suite 501
Atlanta, Georgia 30334

HOLLY K. O. SPARROW
CLERK/COURT ADMINISTRATOR

(404) 656-3450
sparrowh@gaappeals.us

March 27, 2013

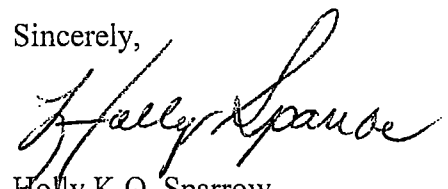
Mr. Daniel Eric Cobble
GDC758572
Baldwin State Prison
Post Office Box 218
Hardwick, Georgia 31034

RE: A13D0279. Daniel Eric Cobble v. Brian Owens, Commissioner, et al.

Dear Mr. Cobble:

I am in receipt of your communication of postmark date March 25, 2013. Please be advised that pursuant to Rule 31(e) of the Court of Appeals of Georgia a stamped "filed" copy of the trial court's order to be appealed must be attached to your application. Because your copy of the order was not stamped filed, the Court granted you ten (10) additional days in its order of March 12, 2013 in which to send the stamped-filed copy. The Court is unable to further extend the time to file the stamped filed order because by law it must dispose of your case within 30 days of docketing.

Sincerely,



Holly K.O. Sparrow
Clerk/Court Administrator
Court of Appeals of Georgia

HKOS/ld
Enclosures

Logout

Case Management

General Docket | Lower Court | Party/Attorney | Filings | Judgment | Certiorari | Remittitur | Notes | Case History

Edit **Filings and Actions** **Transfers** **Mailing Labels**

Tracking

Return to Search

Case Style	DANIEL E. COBBLE v. BRIAN OWENS, COMMISSIONER, et al
Short Style	DANIEL E. COBBLE v. BRIAN OWENS, COMMISSIONER, ET AL
Case Number	A13D0279

Assigned Judge: P. J. Gary B. Andrews Assigned Division: 3 Short Number: 95-024 Assignment Type: System

Panel: P. J. Gary B. Andrews, J. Stephen Louis A. Dillard, J. Carla Wong McMillian Opinion Status: ND

Docket Date: 03/08/2013 Term: A13 Docket Calendar: 0613 Status: D Notes: No

View Rejected Filings

Filings and Actions | Court Initiated Actions

Return to Search

Application Docketed on 3/08/13
- No order has been sent out from the Court. Pro-se is confused. He thinks the docketing Notice is an Court order.

He has filed an MFR & Notice of Intent to appeal. See Attached.

Do you want me to just take this as Info?

Bri

To clerk of Georgia Court of Appeals

From prose petitioner Daniel Eric Cobble
758572 Baldwin State Prison
P.O. Box 218 Hardwick, Georgia 31034

Today is 3-18-13 Daniel Eric Cobble

regarding civil # A13D0279

(1) beware I just got your notice my appeal app. has been filed in your court today on 3-18-13 for 1st time

(2) beware I just got your courts 10 day order today on 3-18-13 for 1st time

(3) beware this prison refuses to send out my indigent mail except on Thursdays only, so prison will not let me respond to your 10 day order till 3-21-13, so my papers to you are going to be late, but thats not my fault. I can't do anything about it, please help?

(4) beware I already sent you the only copy of Fulton superior courts order that they sent me, but it did not have any civil action number, it did not have a stamp saying filed in court on it, thats Fulton superior's fault, I can't do anything about it, so that courts preventing me abiding by your courts 3-12-13 order, please help?

(5) This prison illegally took all 87 manilla envelopes full of my courts documents, typer paper, white letter envelopes, inkpens, courts civil numbers courts addresses, etcetera, on 3-8-13 out my locked 24/7 cell, without give me any receipt, so I can't get notarized indigency affidavit out of it along with other stuff I need to appeal your courts decision to Georgia Supreme, I told them I need all of it, I grieved it there is no prison system rule allowing this, its all recorded to have happened just as I described above on tapes to Indoor wall mounted security cameras that face inside, nobodys elses papers were taken. Please help? (6) See inside

In the Georgia Court of Appeals
State of Georgia

Daniel Eric Cobb
758572
pro se petitioner

civil # A13D0279

v.

Brian Owens, commissioner
defendant

disc. appeal. app. of tort suit

notice of corrected page information

(1) Petitioners Notice fulton superior is illegally preventing me from abiding by Georgia Appeals courts order of 3-12-13, by superior only sending me a un-stamped, un-filed order, without civil action number assigned, thereby I'm deprived from sending Georgia court of Appeals papers they require of me in their 3-12-13 order. (This is corrected pg notice)

(2) also prison is also depriving me from my abiding by this courts orders by prison illegally taken all my legal papers, typer paper, letter envelopes, inkpens, current 22 civil cases numbers list, courts addresses, courts forms, notarized them, unit manager Smith took out my cell for no reason on 3-8-13, I can't properly appeal this courts order without all 87 manila storage envelopes full of courts papers given back to me. There is no prison rule allowing this. This incident is on the wall mounted security cameras tapes that are indoors, so unless this court issues orders to fix this I can't abide by this courts orders. I'm using my cellmate's inkpen now, my last cellmates paper now to write this

(3) Prison is illegal interfering with my ability to send out my mail to this court to abide by this courts orders as prison only sends out my indigent mail one day a week only thats on Thursdays, but I just got your 10 d order on monday 3-18-13 for 1st time, so I can't get this notice to you in time this is one of the things tort suit was filed in 1st place. now commission does it again and you all in court continue to sit on your butts, and

By Daniel Cobb
pro se petitioner

In the Georgia Court of Appeals
State of Georgia

Daniel Cobble
758572
pro se petitioner
v.
Brian Owens
Commissioner
defendant

civil
A13D0279

Misc. appeal of
of fert suit

Motion for Reconsideration

(1) on 3-8-13 The Georgia Court of appeals received from petitioner the only order Fulton Superior ever sent me, so Georgia appeals courts 3-12-13 order is a outright lie, its slander, so quit blaming me for courts actions.

(2) See corrected pg Georgia Court of Appeals receives today with this reconsideration for all the other reasons I have for this court to Reconsider its dismissal, and I need this courts orders to be issued to fix problems on my corrected pg I sent this court or else I'll not be able to appeal this courts rulings to Georgia Supreme, etcetera.

by Daniel Cobble
pro se attorney

In the Georgia Court of Appeals
State of Appeals

Daniel Eric Cobble
758572
pro se petitioner
v.
Brian Owens, commissioner
defendant

civil
A13D0279

disc. appeal app.
of fort scott

notice of intent to appeal

petitioner hereby notifies Georgia Court of Appeals order I ain't set yet but I know you'll won't set this notice till after you 10 day order expires because prison will not pick up or let me send out this mail till nine days after [redacted] court issued it, but that I didn't set till six days after court issued it

prison don't do certified, indigent mail or overnight to A. G.'s office or to courts or to defendants

I sent to Georgia Court of Appeals the only order for ten superior sentence

by Daniel Cobble
pro se petitioner

Certificate of Service

This is to certify that I have this day served opposing counsel at below prior to filing by hand delivery thru institutional mail to warden to Rich to below

The attorney General of Georgia
Samuel S. Olens
Dept. of Law
40 Capitol Square
S.W. Atlanta, Georgia
30334-1300

note. Prison illegally holding legal papers, so I don't have commissioners new address urgent to send him copy

This 21st day of March

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 28, 2014

Mr. Michael Lane Brewer
GDC2043731 F-A-11
Richmond County Jail
Webster Detention Center
1941 Phinizy Road
Augusta, Georgia 30906

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

Dear Mr. Brewer:

Your case is still pending before the Court.

Sincerely,

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

SEC/ld

March 21, 2014

Michael Lane Brewer
F-B-9, GDC204373I
Richmond County Jail/
Webster Detention Center
1941 Phinizy Road
Augusta, GA. 30906-5173

Stephen E. Castlen,
Clerk/Court Administrator
Court of Appeals of Georgia
47 Trinity Ave. S.W.
Suite 501
Atlanta, GA. 30334

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

Dear Mr. Castlen:

Please send me a copy of this Court's opinion directly once a decision has been made.

All I can say is that I believe that this court will most likely agree with my Appellate Counsel because the State cannot tell me that I may not file pro se - if I am represented by counsel - then hold my pro se efforts against me. It cannot be both ways.

Everyone believes that 40 years is too much time. This case should have been dismissed.

Sincerely,
Michael Lane Brewer
Michael Lane Brewer

GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL
APPELLATE DIVISION

104 Marietta Street • Suite 600 • Atlanta, Georgia 30303

W. Travis Sakrison, Director

404-739-5178 • Facsimile 404-739-5188 • www.gpdsc.com

14 March 2014

Mr. Michael Brewer
Richmond County Jail / Webster Detention Ctr.
(F-A-12)
1941 Phinizy Rd.
Augusta, Ga. 30906

Dear Mr. Brewer,

I have been trying to attend to my accumulated mail but it has been difficult. I started yesterday, for instance, with one half-written reply to someone on my desk, ten minutes from completion, and it was still there when I left at 6:00 PM, after a parade of colleagues, phone calls, and e-mails seeking consultations. ("When you're giving it away . . . .") Today was a bit lighter since several people were out of the office and others apparently taking early afternoons. Myself, it is 7:00 PM and I am still here. I suspect that there are others in my pile, but I have reached your letter of 10 March, probably because it was on the top of the what I had been keeping relatively safely in my mail box but just brought to my desk.

I can imagine that the one enumeration makes you nervous. I too would not mind if there were at least one or two more of some substance but it was a tough record and that statutory construction issue I thought we had sunk like a rock under the old version of the statute you were charged with violating. I have been doing this sort of thing a long time though, and except for death penalty cases, where the goals are complexity and a case that never ends, I have frequently raised only one issue and seldom more than three or four. That is the practice of most experienced appellate lawyers and the advice of most appellate judges. Indeed, the surest sign of someone who does not do much appellate work is a 50-page brief with double-digit issues. If one can discern issues without prospects, then the time and effort spent on them are wasted, diverted from the better issues. Worse though, they distract the reviewing court and obscure issues which might prevail. And they suggest either a lack of confidence or a failure of discrimination on the part of counsel. As you know well, it is difficult to bust a conviction but it usually only takes one issue to do it. It is rare enough that this one issue is there. It is awfully unusual to have multiple bases for reversal, as appellate judges probably know better than most lawyers..

I have made the copies you requested, and they are enclosed. I will need to double-check Monday about the demand for trial, which should be part of the record even though regarded as a "nullity" during representation by counsel.

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 7, 2014

Mr. Michael Lane Brewer
GDC2043731 F-A-11
Richmond County Jail
Webster Detention Center
1941 Phinizy Road
Augusta, Georgia 30906

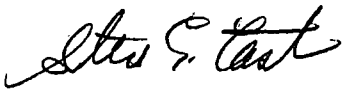
RE: A14A0799. Michael L. Brewer v. The State

Dear Mr. Brewer:

The Appellant's Brief was filed in the above appeal on January 23, 2014; the Appellee's Brief was filed on February 17, 2014. Your case is still pending before the Court.

Our records indicate you are represented by James Bonner and Michael Tarleton, both with the GPASC Appellate Division, 104 Marietta Street, Suite 600, Atlanta, Georgia 30303. Please contact your attorneys for any future updates of appeals you have with this Court.

Sincerely,



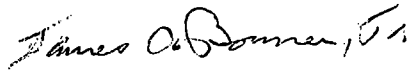
Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld

I did not think a reply brief was necessary (and under the Court of Appeals rules it is too late now anyway). To be frank, while I would like to be surprised, I do not think the Court of Appeals is where the issue will end or your case will be finally decided. The issue is sound and under the law we ought to win it, but the Court of Appeals is not going to want to give it to us. I do not know exactly how it might do it, but I expect it will find a way to throw us back and that we will ultimately be trying to reach the State Supreme Court for resolution. If no luck there, then I believe that even under the AEDPA you would have a viable claim that the state judgment was "contrary to" or an "unreasonable application of" Strickland.

I have made the copies you requested.

Regards,



James C. Bonner, Jr.

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 28, 2014

To: Mr. James O. Burden, GDC226527 I-3-15B, Ware State Prison, 3620 Harris Road, Waycross, Georgia 31503

Docket Number: A14A1183 **Style:** James O. Burden 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: The referenced appeal was dismissed on March 17, 2014.**

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

IN THE COURT OF APPEAL OF GEORGIA
STATE OF GEORGIA

James O. Burden #226527
(Appellant)

Vs.

STATE OF GEORGIA

X
X
X
X
X
X
X
X

APPEAL CASE NUMBER:
A14A1183

MOTION TO WITHDRAW APPEAL TO VACATE VOID SENTENCE:

The Appellant, James O. Burden voluntarily files this motion to withdraw appeal to set aside or vacate void sentence. The motion was filed incorrectly by appellant, and appellant, James O. Burden prays and ask this horonable court to remittitur the case back to trial court at the earliest time, so I may utilize the correct procedure, to obtain the relief im seeking.

Submitted this 21 day of March, 2014.

James O. Burden #226527
J.O.B. (Appellant) Pro SE

Certificate of Service.

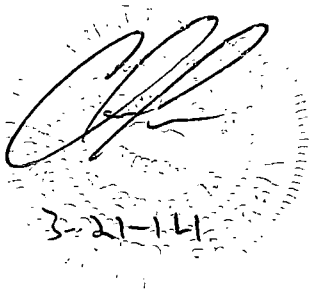
I, James O. Burden, hereby clarify that I have this day served the following parties with a copy of this foregoing Brief by placing same in the U.S. Mail with sufficient postage affixed thereon to insure delivery and addressed as follows:

Denise Fachini
District Attorney
Cordele Judicial Circuit
P.O. Box 5510
Cordele, Ga. 31010-5510

+

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

This 21st day of march, 2014.



3-21-14

James O. Burden
(Appellant)

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 28, 2014

Mr. Duane Delehanty, Jr.
#1213660
Caledonia Correctional Institution
Post Office Box 137
Tillery, North Carolina 27887

Dear Mr. Delehanty:

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

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

You may write the Supreme Court of Georgia at the following address: 244 Washington Street, S.W. • Suite 572, Atlanta, Georgia 30334.

We are returning your documents to you.

Sincerely,

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

SEC/ld
Enclosures

Georgia Court of Appeals

I'm inmate Duane Delehanty # 1213660 housed at Calodina Correction Inst in North Carolina. I'm Requesting a writ of mandamus in case No: 10SR4171D in the state of GEORGIA.

This is a misdemeanor charge of Riot and Affray.

I filed for a fast and "speedy trial" on Feb 28th, 2013.

Also I filed for a "motion and Request for Dismissel" on July 12th, 2013, All of which were mailed by u.s. prepaid postal service,

To: Presiding Judge of HALL county District court P.O Box 1072

Gainsville Georgia 30501

Reasons why the writ of mandamus should be Issued

A writ of mandamus is an order from a court of competent jurisdiction to an inferior court, officer, or person commanding to an order from a specified offical duty imposed by law.

Sutton V. Figgant, 280 N.C. 89, 93, 185 S.E. 2d 97, 99, (1971).

The writ is a remedy for inaction of an official and is a personal duty which the plaintiff has a clear legal right to have him perform. "A party seeking a writ of mandamus must have clear legal right to demand it, and the party to be coerced must be under a positive legal obligation to perform the act sought to be required." Please see — ST. George V. Hanson, 239 N.C 259, 263, 785. E. 2d 885, 888 (1954).

Please see Exhibit "A" which will be a copy of my Fast and speedy trial to Hall county GEORGIA Resident Judge on feb. 28th, 2013

Exhibt "B" Is a copy of a "Request for Dismissal" on July 12Th, 2013, which was also filed with Hall County GEORGIA Resident Judge.

I here by declare under Penalty of Perjury the foregoing Information is true and correct to the best of my Knowlege This 18Th day of march, 2014.

Signature [signature] JR

P.O Box 139

Tillery NC 27887

PRint Duane Delehanty JR

Exhibit "A"

2-28-13
12:38 P.M

Stephanie D. Woodard
Solicitor-General
Hall County Georgia
P.O Box 1072
Gainesville, Georgia 30503

This is Duane. F. Delehenty JR Prison ID #1213660
I am Being held in state Prison in NC I wrote about 2 pending charge's (10CR569C) and (10SR4171D) and you responded that the case # (10CR569C) is dismissed but I still have a pending misdemeanor case of Riot and Affray (10SR4171D) and you said the only way that case can be resolved would be when you are released from custody, as we cannot transport you from out of state. and I under stand that but it is hendering me from geting to leave medium custody to minimum custody and I am Asking for a Fast and speedy Tril please help me Tessol this issue I do not understand why they dismissed a Felony and not a misdemeanor so I Guess a Fast and speedy tril is what I won't.

Thank you for your Time

Duane Delehenty 1213660

Exhibit "B"

STATE OF GEORGIA
Hall county

General court of Justice
District court Division
File NO: 10SR41710

State of GEORGIA Plaintiff	
v.	Motion and Request for Dismissal
Duane Delehanty Defendant	

To: the Presiding Judge or Resident Judge of
Hall County District court

Defendant, Duane Delehanty, by and through Pro-SE Representation, moves this Honorable court to dismiss the outstanding criminal charge in the aforesaid case due to the State's failure to Prosecute pursuant to G.A. code Ann. section 17-7-170, and due to the denial of the Defendant's right to a speedy trial, pursuant to the sixth Amendment of the united states constitution and Georgia constitution, Art, I, section 1.

In support of this motion, Defendant submits the Following:

1. Defendant is presently confined in the North Carolina Department of public safety/Division of prisons, at the Caledonia correctional Institution in tillery, NC as a result of other Criminal procedings. Specifically, Defendant was convicted of Felonies in the year 2011 and received a sentence in excess of 73 months but less than 100 months in the Caldwell county Supesior court, and is presently serving a sentence of imprisonment imposed by that court.

2. Pursuant Georgia. Code Ann. Section 17-7-170, Defendant filed by letter with Solicitor-General stephanie D. woodard a Request for disposition of case No: 10CR569C and the afore said case — 05R4171D on August 2, 2012 and again on february 28, 2013 only 10CR569C has been resolved.

3. A period of more than six months has now expired since the date of the first written notice and the District Attorny/ Solicitor General has not proceded in accordance with the statute.

4. Defendant is now entitled, to relief pursant the statute. and the speedy Trial Act of 1974, to dismissal of the charge or charges.

5. The sixth Amendment speedy Trial guarantee is binding on the states through the Due Process clause of the Fourteenth amendment. See Klopfer V. N.C, 386 U.S. 213, 222-23 (1967); see also Smith V. Hooey, 393 U.S. 374, 377 (1969). see e.g. Interstate Agreement on Detainers Act, Pub. L No 91-538 Sections 1-8, 84 stat. 1397-1403 (1970), amented by Pub. L No. 100-690, tit VII Section 7059, 102 statute 4403 (1988)

6. Any further delay in dismissal of this charge will be contrary to law, will cause Defendant anxiety and concern, may violate Defendant's right to due process of law, and will limit and restrict Defendant's eligibility for Prison Programs, educational opportunities, work opportunities, custody promotion, Prison Privileges etc.

Therefor, Defendant respectfully request this court to dismiss the charge or charges with prejudges and in bar of any further prosecution, as required by law.

Respectfully submitted this 18th day of March, 2014

[signature]
1213660

Duane Delehanty
P.O Box 137
Tillery, NC
27887

CERTIFICATE Of Service

I herby certify that a copy of the forgoing motion and Request for Dismissal has been duly served upon counsel below by Placing same in the U.S. Mail, postage prepaid to the address listed below:

Stephanie D. Woodard
Solicitor - General
Hall county Georgia
P.O Box 1072
Gainesville, GEORGIA
30503

Signature, [signature]

Print DUANE DELEHANTY
1213660
P.O Box 137
Tillery, NC
27887

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 28, 2014

To: Leonard Danley, Sr., Esq., 6519 Spring Street, Douglasville, Georgia 30134
Docket Number: A14A1119 **Style:** Donnie G. Holland 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: Exhibits not certified by the clerk of the trial court shall not be considered on appeal. Rule 24(g)**

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

COURT OF APPEALS
47 Trinity Avenue, S.W.
Suite 501
Atlanta, GA 30334
(404) 656-3450

Receipt No. 110547

DATE 3/26/2014

RECEIVED OF Danley & Associates

WE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

BRIEF OF APPELLANT ✓

ENUMERATION OF ERRORS

WITHDRAWAL FEE

PHOTOCOPIES

ADMISSION FEE

CERTIFICATION FEE

APPLICATION COST

OTHER

CASE NUMBER A14A1119

AMOUNT $ 300.00

Check # 2194

CLERK

ORIGINAL

IN THE COURT OF APPEALS

STATE OF GEORGIA

CASE NO.: A14A1119

APPELLANT'S BRIEF

CARROLL COUNTY STATE COURT

CASE NO. S2012CR00693

Submitted by: Leonard Danley, Sr.
Attorney for Appellant
Georgia Bar 204710
6519 Spring Street
Douglasville, Georgia 30134
(770) 942-2053

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: March 28, 2014

To: Ms. Sharyn A. Erickson, 1330 Wheatfield Drive, Lawrenceville, Georgia 30043
Docket Number: A14A1244 **Style**: Sharyn A. Erickson v. Mt Vernon Towers Condominium Association, Inc.

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 (<u>joint</u>, <u>compound</u> and <u>alternative</u> 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: I have enclosed a copy of the Court Rules for your review.**

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

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

Sharyn Arlene Erickson,	]	
	]	
Appellant	]	
	]	
V.	]	Appeals Case No. A14A1244
	]	
Mount Vernon Towers Condominium Association, Inc.,	]	
	]	
	]	
Appellee	]	

ORDER

This Court, having considered the Petitioner's temporary request to proceed *in forma pauperis*, hereby grants the request to be able to pay the filing fee of $300 with her brief.

This _____ day of _____, 2_____.

_____

Judge, Appellate Court

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

Sharyn Arlene Erickson,	]	
	]	
Appellant	]	
	]	
V.	]	Appeal Case No. A14A1244
	]	
Mount Vernon Towers Condominium Association, Inc.,	]	
	]	
Appellee	]	

MOTION FOR RE-D0CKETING IN APRIL TERM,
MOTION TO CONSOLIDATE APPEALS,
OR, IN THE ALTERNATIVE,
MOTION FOR EXTENSION FOR APPELLANT BRIEF
AND ORAL ARGUMENT

1. Because, as shown in the attached documents, the case appealed above was re-opened by the improper and illegal actions of plaintiff's (now appellee's) attorney, in order to interfere with defendant Sharyn Erickson's (now appellant's) ability to pursue her appeal, she hereby requests that her appeal be re-docketed to May 19, 2014, or such later time as required, in order to consolidate it with the appeal of the garnishment decision on this matter.
2. Consolidation is prudent to conserve judicial resources, since the garnishment is about further improper actions regarding this same case.
3. This date would allow sufficient time after the scheduled garnishment hearing on April 17, 2014 for the Gwinnett Court to return her money to either the Associated Credit Union or to her, for her to be able to access the money to pay the appeal costs.
4. Appellee/plaintiff's attorney, Jacob Davis, improperly interfered with her appeal by forcing her to have to use her time to fight his improper and illegal garnishment of 100% of not only all of her readily available money (which excludes her unavailable retirement fund), but 100% of her earnings for the next several months (as detailed in the attached motions to the two Gwinnett County Courts)—in violation of multiple provisions of the Georgia Code—instead of being able to work on her brief.

5. He also interfered with her appeal by illegally preventing her from having the funds available to be able to pay for the costs for the appeal—as outlined in the attached documents—or being able to attempt to find an attorney to represent her.
6. Not only did he improperly file a pre-judgment garnishment—without a proper, legal basis under the Georgia code—but he knowingly garnished more than twice the amount of judgment, after having been informed that a sufficient amount for the judgment or *supersedeas bond* was available in her son's account (in her name) at the Excel Federal Credit Union.
7. And that was after she had attempted to pay plaintiff/appellee the judgment in full, so she would not be assessed interest on it, with the caveat that it be returned if she won the appeal—but plaintiff/appellee refused to accept it and returned it to her.
8. This was clearly a deliberate, continued abuse of a single, working mother, non-attorney, *pro se* appellant/defendant—which must not be countenanced by the Georgia Court of Appeals.
9. She also did not learn that the Superior Court had allowed her appeal to go forward (despite what the attached *Rule NISI* notice had said) until March 19th, 2014, so she had been filing motions (also attached) attempting to get the Gwinnett Superior Court to allow a method for payment of the *supersedeas bond* as late as March 17, 2014.
10. The *rule NISI* (attached), from the Gwinnett Superior Court, had been received within a few days of the Notice of Docketing from the Appeals Court. As a result, she had inquired at the Court Clerk's office two days before the scheduled hearing on March 19, 2014, to find out whether she still needed to appear--despite her intervening filings--and had been told that she did. Plaintiff's attorney had been informed otherwise, however, and was not present. After waiting nearly a half hour for the hearing to be called, and not seeing plaintiff/appellee's attorney, she inquired at a Court office about it, and was initially told that it was "continued" to an undetermined date.
11. She then insisted on speaking to someone in Judge Hamil's office to find out why plaintiff's attorney had been informed of the cancellation, but she had not, and what would happen about the appeal—since her brief was due in a few days if the appeal had not been cancelled, as indicated in the *rule NISI.* Finally, a clerk came out and told her that she had paid the document filing costs, so it had been forwarded to the Georgia Court of Appeals, and the Superior Court office was done with the matter until after a ruling by the Georgia Court of Appeals, but the garnishment would be handled by Gwinnett's State Court office.
12. Since the clerk failed to mention the *supersedeas bond* also covered by the

rule NISI, I gathered that Judge Hamil and his office were also now already aware of the garnishment covering it.

13. If such motion to re-docket this case and consolidate it with the garnishment action cannot be granted, then appellant hereby moves for her brief to be due no earlier than Jun 9, 2014, to allow it to cover all of the legal errors regarding this matter being appealed, plus time to prepare such brief after receiving the decisions.
14. As also indicated by the attached copy of a filing, in addition, she has a reply brief due to U.S. Department of Labor Administrative Law Judge Pamela Lakes during that time, for which she also needs to request an extension because of plaintiff/appellee's garnishment action, so she is currently unsure of the date. She is also *pro se* in that whistleblower action, and she is a full-time working mother.
15. Appellant also has been having increased episodes of dangerous tachycardia—as diagnosed by her primary care doctor, and noted in the attached letter to her workplace—as a result of the stress of these actions (particularly the garnishment) and needs a reasonable amount of time to be able to address matters in order to avoid a potential heart attack or stroke (as well as significantly worse stomach pain and other effects from her gastritis and ulcerative colitis and other health problems).
16. If the case cannot be re-docketed in another term, appellant also moves for an exception to the restriction against oral argument being permitted in a different term, since the circumstances are unusual, and not of her making. It was not her actions that improperly re-opened her appeal case, and she should not be denied rights because of the improper actions of others.
17. She hereby moves for oral argument whenever her complete case—including both actions—are ready to proceed—at which time she will file the proper notice with her brief.
18. The Court actions requested above are necessary in the interest of equity, and appellant hereby moves for all of the actions requested above in order to begin to grant some measure of justice in this appeal.

Respectfully submitted,

Sharyn A. Erickson

Sharyn A. Erickson
Pro se appellant

3/25/14
Date

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

Sharyn Arlene Erickson,	]	
	]	
Appellant	]	
	]	
V.	]	Appeal Case No. A14A1244
	]	
Mount Vernon Towers Condominium Association, Inc.,	]	
	]	
	]	
Appellee	]	

AFFIDAVIT OF SHARYN ERICKSON

STATE OF GEORGIA
COUNTY OF GWINNETT

Personally appeared before the undersigned notary public, duly authorized to administer oaths in this State, Sharyn Erickson, who, having been duly sworn, deposes and states as follows:

1. My name is Sharyn Erickson. I am of legal age, under no legal mental disability, and make this affidavit upon my personal knowledge of the facts, and I authorize for its use for any and all purposes allowed by law.
2. I have spoken to Dan, the chief attorney in Judge South's office—where the garnishment action will be heard—and he stated, on March 25, 2014, that they will not do anything to comply with the three sections of the Georgia code that I cited to him on the phone and in both of my motions (attached) (Sections 18-4-45, 18-4-46, and 18-4-93) requiring the court to move up the motions hearing from April 17th, 2014, to within 10 days of my filing on March 17, 2014.
3. Thus, 100% of my salary and all of my other personal funds (except unavailable retirement) will continue to be held until after that date—even though the amount garnished was more than twice the amount of the original judgment, and was not final because of the already-filed appeal.
4. Plaintiff/appellee's attorney, Jacob Davis, knew of the availability of $38,000

required for the *supersedeas bond* in my son's Excel Federal Credit Union account by at least February 24th or 25th, because I had faxed him a copy of the attached Feb. 24, 2014 Motion for Acceptance of Letter Regarding Account Balance well prior to either his affidavit or filing for both garnishments on March 4, 2014.

5. He had also been provided with a copy of the Notice of Appeal dated Dec. 6, 2013.
6. Appellee's Notice of Garnishment did not state the exclusion of 100% of salary, as required by Georgia Code Section 18-4-46.
7. I had attempted to pay plaintiff/appellee the total amount of judgment, and have the letter from him returning my check and stating that he would not accept it with my statement that he would have to return it if I won the appeal.
8. Plaintiff/appellee's amounts and the decision order that he wrote for the judge to sign did not agree with each other, and were vague and unclear as to the period covered.
9. I just realized that I apparently do not have a copy of the Rule NISI with me, but a copy should be in the file from the court, and my filing in response is attached.
10. I had gone to court for the March 19, 2014 *Rule NISI* hearing, only to find out that it had been cancelled without telling me—despite having checked two days before, and having informed plaintiff/appellee.
11. I also have to file a motion to request an extension for time to file a reply brief in my whistleblower action against EPA.
12. I have numerous health problems, including a hand disability from 10 problems with my hands, tachycardia, high blood pressure, ulcerative colitis, gastritis, asthma, allergies, diabetes, and several related or more minor conditions, and I have been having episodes of tachycardia—which I had as severely or frequently lately, particularly since receiving the garnishment notices.
13. All other factual statements in my filing are true (unless I missed a document I mentioned as attached).

Further Affiant Sayeth Not

Sharyn A. Erickson

Sharyn A. Erickson

Subscribed and sworn to
Before me this 25 day of
March, 2014.

Belinda Jackson

BELINDA JACKSON
NOTARY
EXPIRES
GEORGIA
NOV. 18, 2015
PUBLIC
DEKALB COUNTY

CERTIFICATE OF SERVICE

I certify that I have this day served Jacob R. Davis with a copy of this Notice of Appeal by mailing a copy first class mail postage prepaid to him at: Lipshutz Greenblatt LLC, 1 West Court Square, Suite 700, Decatur, GA. 30030.

This is the 25 day of Mar, 2014.

Sharyn A. Erickson

Sharyn A. Erickson

1330 Wheatfield Dr.

Lawrenceville, GA. 30043 Phone: 770-339-7219, or Tues. –Thurs. daytime: 404-562-8021.

IN THE STATE COURT OF GWINNETT COUNTY, GEORGIA

MOUNT VERNON CONDOMINIUM ASSOCIATION, INC.

PLAINTIFF

VS.

CIVIL ACTION FILE NO. 13-A-05156-8

SHARYN ARLENE ERICKSON

AND

1330 Wheatfield Dr.

GARNISHMENT CASE # 14GC-00767-5

Lawrenceville, GA 30043

DEFENDANT

AMENDED EMERGENCY MOTION FOR TRAVERSE OF PLAINTIFF'S AFFIDAVIT OF GARNISHMENT REQUESTING IMMEDIATE REVOCATION OF ORDER OF GARNISHMENT;

MOTION FOR RESCHEDULING OF GARNISHMENT HEARING TO COMPLY WITH GEORGIA STATUTE;

MOTION FOR REIMBURSEMENT FOR ALL WAGES FOR TIME OFF WORK FOR COURT APPEARANCES AND OTHER TIME REQURED TO RESOLVE GARNISHMENT MATTERS;

RENEWED MOTION FOR ALL OTHER REMEDIES AND SANCTIONS REQUESTED IN ORIGINAL TRAVERSE OF PLAINTIFF'S AFFIDAVIT FILED ON MARCH 17, 2014

1. Defendant Sharyn Erickson hereby amends her motion for dismissal of the garnishment filed on March 17, 2014, with new facts just learned about the illegal garnishment of her accounts by plaintiff in these cases. Instead of accepting the voluntary payments of the total judgment to avoid interest that defendant attempted to make to plaintiff's attorney, he filed this illegal garnishment for well over twice the amount of the original judgment, which was on appeal, and not subject to such action. Not only has one paycheck now been garnished for 100% of her wages for two weeks, but she just learned that a second one was just garnished for 100% of her wages for another two weeks. Plus, Associated Credit Union informed her that they will continue to garnish 100% of her pay, per the court's orders, for at least another six to eight weeks or longer, until the remaining duplicate garnishment is fulfilled, plus all fees for both parties for returned or bounced bills for all of her living expenses—even though the bills will not be paid.
2. Defendant also learned that her garnishment hearing has been set for April 17, 2014—which does not comply with Sections 18-4-45, nor 18-4-46, nor 18-4-93 of the Georgia Code. All of those sections require a hearing within 10 days of the filing of information by the defendant stating that the affidavit is untrue or legally deficient. (See attached redacted copy of

Associated Credit Union statement showing automatic deposit of paychecks, and copy of Court of Appeals Notice of Docketing proving the illegality of this result of the known, deliberate acts of plaintiff attorney Jacob Davis—who had been previously provided a check for the judgment, then a notification of sufficient amount for the supersedeas bond in the Excel Federal Credit Union account in the previous court filing on Feb. 24, 2014--which was well prior to plaintiff's attorney's filing of his materially false affidavit and garnishment orders.) (See attached copy of documents from both credit unions.)

3. As was previously pointed out in the original challenge of the truthfulness and legality of the garnishment orders, a summons of garnishment can only issue in a pre-judgment garnishment order if one of the conditions in Section 18-4-40 exists, plus the plaintiff has filed with the garnishment filing a bond, (in a sum equal to twice the amount requested to be garnished), conditioned to pay the defendant all costs and damages that he/she may sustain in consequence of issuance of the summons of garnishment, as here.
4. Section 18-4-43 also stated three conditions that would invalidate the need for such bond:
    a. The amount claimed was not due;
    b. No lawful ground for the issuance of such garnishment prior to judgment existed; or
    c. The property sought to be garnished was not subject to garnishment.
5. In addition, according to Section 18-4-46, no part of the personal earnings of the defendant shall be subject to garnishment prior to judgment, thus making it not subject to garnishment.
6. Section 18-4-65 specifically states that if the garnishment proceedings are based upon a pending action, the case shall proceed in accordance with Code Section 18-4-45, for pre-judgment proceedings.
7. Thus, she will have no money to feed her son, or pay her bills—in addition to still owing for all of the unpaid bills for several months—as a result of the illegal garnishment (let alone the doubly-illegal garnishment of twice the amount). Because it takes at least two months or more to process changes to the requested routing of her paychecks through the defense finance center, and changes to processing of her automatic bill payments, she will be unable to avoid these disastrous results until the court orders an immediate stop to the garnishments by the credit unions.
8. Defendant also moves for the reimbursement by plaintiff attorney Jacob Davis of her hourly rate of wages for all of the time that she has had to, and will have to, take off work--at 10 hours per workday--to appear in court at least twice, plus her time to file motions over these illegal actions, contrary to Georgia and federal codes. She already had to take off on Mar. 19, 2014 for the ordered hearing on the payment of the supersedeas bond and court costs—only to learn after waiting outside the courtroom to be called for the hearing that it had been cancelled—which plaintiff attorney knew, because he did not show up for court. Defendant had called the court two days prior to the hearing and was told that it was being held, and was never informed otherwise, despite the court having all of her phone numbers on multiple documents. (Attached is proof of her current rate of hourly pay of $45.23 per hour.
9. She again renews all of her motions for all other actions and damages requested in her original motion, and for sanctions against Plaintiff's Attorney, Jacob Davis, for his material

misrepresentations in this matter, contrary to the cited sections of Georgia code, particularly sections 18-4-45, 46, and 65.

10. Defendant moves that all amount of interest be removed if any amount is eventually assessed, since she had attempted to pay the amount due originally, only to have it returned by plaintiff's attorney.
11. Defendant also moves for interest on her money to be paid by plaintiff's attorney for the period from the date of garnishment until it is returned to her accounts, at the normal, court-ordered 10% rate that he had been improperly charging after refusing her payment.
12. Thus, in accordance with the Georgia Code sections regarding garnishment, and all of the facts above and in her previous motion regarding the garnishment—as supported by her previous filings in the Superior Court case mentioned above and the attached documents—the court is requested to hold a hearing within ten days of the date of defendant's original motion and revoke and dismiss the garnishment(s) against her, and immediately return all funds to the respective credit unions, or to her, personally, and order all requested sanctions and damages, and take such other actions as the court deems appropriate.

Respectfully Submitted,

Sharyn A. Erickson

Sharyn A. Erickson

1330 Wheatfield Dr.

Lawrenceville, Ga. 30043

770-339-7219 (H); 404-562-8021(W)

Date: 3/21/14

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: A14A1244 **DATE OF DOCKETING: March 07, 2014**

STYLE: SHARYN ARLENE ERICKSON A/K/A SHARYN A. ERICKSON v. MOUNT VERNON TOWERS CONDOMINIUM ASSOCIATION, INC.

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 Jun 11 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.

ASSOCIATED CREDIT UNION
ALSO SERVING MEMBERS OF CSRA CU
6251 Crooked Creek Road, Norcross, Georgia 30092-3107

NCUA Your savings federally insured to $250,000 by the National Credit Union Administration, a U.S. Government Agency.

Account Number XXXXXX[redacted]
Statement Period 02/01/2014 - 02/28/2014
Page 1 of 3

Wish you had a better rate on your auto loan? Call ACU to see if we can reduce your rate when you refinance with us from another lender.
Now through March 31, transfer your credit card balance at 3.9% APR for 12 months. There are no fees to transfer.
Offer is available for existing and non-existing ACU Credit Card Holders.

**002269

2269 1 AV 0.378 T14 5DGS30043 PL2 R
SHARYN A ERICKSON
1330 WHEATFIELD DR
LAWRENCEVILLE GA 30043-5303

Account Summary

CHECKING [

SHARES [

ID 0000 PRIMARY SHARE ACCOUN

Beginning Date: 02/01/2014 Beginni
Ending Date: 02/28/2014 Ending bal

Eff Date	Description

YTD Dividends Paid $0.00

ID 0011 BASIC CHECKING

Beginning Date: 02/01/2014 Beginning balance:
Ending Date: 02/28/2014 Ending balance:

Eff Date	Description	Amount	Balance
02/03/2014	Withdrawal ACH MBFS.COM		
02/03/2014	TYPE: AUTOPAY ID: 2489483539		
02/03/2014	CO: MBFS.COM		
02/03/2014	Withdrawal ACH KOHL'S DEPT STRS		
02/03/2014	TYPE: CHG PYMT ID: 9044021695		
02/03/2014	CO: KOHL'S DEPT STRS		
02/03/2014	Draft 009661 Tracer 73083450		
02/03/2014	Draft 009664 Tracer 73083440		
02/04/2014	Deposit ACH DFAS-CLEVELAND		
02/04/2014	TYPE: FED SALARY ID: 3041036004		
02/04/2014	CO: DFAS-CLEVELAND		
02/06/2014	Draft 009663 Tracer 74924575		
02/10/2014	Withdrawal ACH Bank of America		
02/10/2014	TYPE: MORTGAGE ID: 8172306638		
02/10/2014	CO: Bank of America		
02/13/2014	Deposit ACH FSAREIMBURSEMENT		
02/13/2014	TYPE: REIMB ID: 9991001756		
02/13/2014	CO: FSAREIMBURSEMENT		
02/13/2014	Withdrawal ACH GWINNETT CTY GOV		
02/13/2014	TYPE: DEPTWATRES ID: 3586000835		
02/13/2014	CO: GWINNETT CTY GOV		
02/15/2014	Deposit ACH DFAS-CLEVELAND		

ID 0011 BASIC CHECKING (continued)

Beginning Date: 02/01/2014 Beginning balance
Ending Date: 02/28/2014 Ending balance:

Eff Date	Description
02/15/2014	TYPE: FED SALARY ID: 3041036004
02/15/2014	CO: DFAS-CLEVELAND
02/18/2014	Withdrawal ACH FIA CARD SERVICE
02/18/2014	TYPE: AUTO PAY ID: DIRECT DEB
02/18/2014	CO: FIA CARD SERVICE
02/18/2014	Draft 009665 Tracer 78043295
02/19/2014	Deposit by Check
02/19/2014	Deposit by Check
02/19/2014	Draft 009324 Tracer 78486745
02/20/2014	Draft 009666 Tracer 70523265
02/20/2014	Draft 009668 Tracer 70332340
02/21/2014	Draft 009667 Tracer 70724740
02/24/2014	Withdrawal ACH AMERICO INS CO'S
02/24/2014	TYPE: INS PMT ID: 1350810610
02/24/2014	CO: AMERICO INS CO'S
02/24/2014	Withdrawal ACH FIA CARD SERVICE
02/24/2014	TYPE: AUTO PAY ID: DIRECT DEB
02/24/2014	CO: FIA CARD SERVICE
02/24/2014	Draft 009669 Tracer 71500105
02/25/2014	Withdrawal ACH FPL DIRECT DEBIT
02/25/2014	TYPE: ELEC PYMT ID: 3590247775
02/25/2014	CO: FPL DIRECT DEBIT
02/26/2014	Withdrawal ACH GPC
02/26/2014	TYPE: GPC EFT ID: 1580257110 CO: GPC
02/26/2014	Deposit by Check
02/26/2014	Withdrawal Transfer To Share 0100
02/28/2014	Draft 009671 Tracer 73141300
02/28/2014	Draft 009670 Tracer 73141295
02/28/2014	Deposit Dividend 0.100%
	Annual Percentage Yield 0.100% 02/01/2014 through 02/28/2

YTD Dividends Paid $1.72

	Total For This Period	Total Year-to-Date
Total Returned Item Fees	0.00	0.00
Total Overdraft Fees	0.00	0.00

Checks cleared at a glance (* denotes skip in check sequence)

Number	Date	Amount	Number	Date	Amount	Number	Date	Amount
009324	02/19	31.00	009661*	02/03	20.00	009663*	02/06	62.50
009664	02/03	20.00	009665	02/18	20.00	009666	02/20	30.00
009667	02/21	545.00	009668	02/20	150.00	009669	02/24	20.00
009670	02/28	200.00	009671	02/28	175.00			

EXCEL
Federal Credit Union

February 18, 2013

Sharyn A. Erickson
1330 Wheatfield Dr.
Lawrenceville, GA 30043

RE: Account Balance

To Whom It May Concern,

Excel Federal Credit Union would like to verify that Sharyn A. Erickson has $38,000.00 available in her Money Market.

If you have any questions, please contact me at 770-441-9235 Ext: 1604

Sincerely,

Tisha S. Campbell
Head Teller

STATE OF GEORGIA

COUNTY OF GWINNETT

DECLARATION OF SHARYN ERICKSON

I, Sharyn Erickson, hereby depose and state as follows regarding all of the statements in the foregoing filing or motion(s), pursuant to the penalty of perjury. Further affiant saith not.

Respectfully submitted,

Sharyn A. Erickson

Sharyn A. Erickson

CERTIFICATE OF SERVICE

I certify that the parties below were served by the means indicated on this date.

Sharyn A. Erickson

Sharyn A. Erickson, *pro se*

3/21/14

Date

Jacob Davis, Esq.

Lipshutz Greenblatt LLC

One West Court Square, Suite 700

Decatur, Ga. 30030

404-668-2300

Fax 404-378-2004

For Mount Vernon Condominium Assoc., Inc.

IN THE SUPERIOR COURT OF GWINNETT COUNTY, GEORGIA

MOUNT VERNON CONDOMINIUM ASSOCIATION, INC.

PLAINTIFF

VS. CIVIL ACTION FILE NO. 13-A05146-8

SHARYN ARLENE ERICKSON AND

1330 Wheatfield Dr. GARNISHMENT CASE # 14GC-00767-5

Lawrenceville, GA 30043

DEFENDANT

EMERGENCY MOTION FOR IMMEDIATE REVOCATION OR DISMISSAL OF WRIT OF GARNISHMENT AS UNLAWFUL;

RENEWED MOTION FOR ALTERNATE TO, OR REMOVAL OF, REQUIREMENT FOR SUPERSEDEAS BOND;

MOTION TO ASSESS ALL COSTS RESULTING FROM GARNISHMENT AGAINST PLAINTIFF ATTORNEY, INCLUDING ALL TRANSCRIPT COSTS FOR HEARINGS IN EITHER CASE;

MOTION FOR SANCTIONS AGAINST PLAINTIFF'S ATTORNEY FOR IMPROPER ACTIONS;

MOTION TO DISALLOW INTEREST, PLAINTIFF'S ATTORNEY FEES, COURT, FILING, AND OTHER FEES TO BE ASSESSED AGAINST DEFENDANT IN SUPERIOR COURT CASE, APPEAL, AND GARNISHMENT;

MOTION FOR DAMAGES FOR MENTAL ANGUISH, STRESS, AND DAMAGE TO REPUTATION

1. For the reasons set forth below and in previous court filings in defendant Sharyn Erickson's Superior Court case enumerated above – as well as in the attached, supporting affidavit – she moves for all of the following, with respect to both the Superior Court case and garnishment case enumerated above:
    a. Emergency Motion for Immediate Revocation or Dismissal of Writ of Garnishment As Unlawful;
    b. Renewed Motion for Alternate to, or Removal of, Requirement for, Supersedeas Bond;

c. Motion to Assess All Costs Resulting from Garnishment against Plaintiff Attorney, Including All Transcript Costs for Hearings in Either Case;

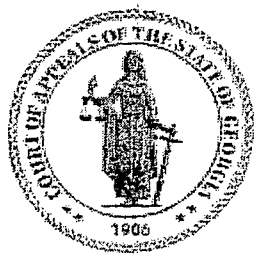
d. Motion for Sanctions against Plaintiff's Attorney for Improper Actions;

e. Motion to Disallow Interest, Plaintiff's Attorney Fees, Court, Filing, and Other Fees to Be Assessed against Defendant in Superior Court Case, Appeal, and Garnishment;

f. Motion for Damages for Mental Anguish, Stress, and Damage to Reputation.

2. First of all, since the amount garnished was not due, nor was the money sought to be garnished subject to the process of garnishment, subject actions clearly violate the Due Process Clauses of the Fourteenth Amendment of both the United States and state of Georgia constitutions, as found by the US Supreme Court against Georgia in *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601 (1975). Georgia Code Sections 18-4-81, 18-4-88, and 18-4-97, in particular, still violate such Supreme Court holding if subject garnishments are not immediately dismissed.

3. As set forth below and in previous filings, subject garnishment also violates the following Georgia code sections 18-4-20, 18-4-40, 18-4-43, 18-4-46, 18-4-48, and 18-4-64.
4. Although the defendant's previous filings had proven that plaintiff's previous calculations and the court's resulting decision had been unclear, inconsistent, and erroneous, and the court had therefore reduced the amount of the supersedeas bond for her requested appeal to $38,000, plaintiff's attorney had improperly again added an unidentified additional amount to the original judgment amount – without any indication as to how it was calculated, or for what.
5. Then, as shown in previous filings and affidavits, defendant had attempted to pay the judgment amount to plaintiff – with the caveat, of course, that she was not admitting the correctness of the decision, and that it would be required to be returned if she won the appeal she had filed.
6. Plaintiff returned her payment, so she filed a motion with the court that she could not be legally assessed interest on a judgment that she had tried to pay, but plaintiff returned, and refused to accept.
7. Nor can plaintiff now file garnishments and assess court and attorney costs for amounts which defendant had attempted to pay, but plaintiff returned – which was how plaintiff knew that her checking account and other assets



2014

Georgia Court of Appeals

RULES

Last Update: February 19, 2014

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

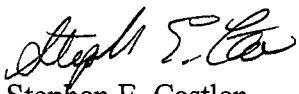
March 28, 2014

Mr. Miles L. Gammage
Reg. No. 64305019
Federal Prison Camp
PMB 2000
Talladega, Alabama 35160

Dear Mr. Gammage:

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 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

Miles J. Mammoye P.C. and
Miles J. Mammoye individually
Appellees

Civil Action
File #

vs

Dawn Anderson, Clinton Bell,
Darrel Cors, Richard Fowler
Darrel Moe, Evan Hernandez
Randy Pierce, James Van Hees
Walter Ware
Appellants

Petition To Proceed In Forma Pauperis

Comes now Miles J. Mammoye individually and for Miles J. Mammoye P.C. and hereby files this petition to proceed in forma pauperis as follows:

(1)

Miles J. Mammoye was incarcerated at Talladega Federal Prison Camp in Talladega, Alabama on November 4 2013. Petitioner has been in prison since that day without release. He has no income and no assets to pay an appeal fee for the attached appeal and requests this Court to allow a reduced fee or partial payments based upon his status

(2)

Petitioner requests only the judgement against him filed on or after February 17, 2014 be forwarded for the record as that document is the only grounds for appeal. Petitioner was not advised of a trial date or given an opportunity to be present for a trial after giving the parties notice of his address in the federal prison.

(3)

Petitioner does not request the entire file copied and forwarded for review as the only issue for appeal is the lack of notice of a trial for which a judgement was taken.

Wherefore, having shown that Petitioner has no way to pay an appeal fee, it is requested in forma pauperis status be granted.

This 17th day of March, 2014

Miles J. Hammage
for Miles Hammage P.C. and
Individually

c.c.
Daniel Hangeling
1718 Peachtree Street
Suite 599
Atl, Ga 30303

In The Court Of appeals
For The State Of Georgia

Miles J. Mammoye P.C. and
Miles J. Mammoye individually
appellees

Civil Action File
Number _____

vs

Dawn Anderson, Clinton Bell
Darrel Cous, Richard Fowler
Darrel Kore, Evan Hernandez
Randy Pierce, James Van Hees
Walter Ware
appellants

appeal of judgement

Comes now Miles J. Mammoye individually and for his P.C. and files this appeal as follows:

(1)

appellees were advised an judgement in the amount of Fourteen Million Dollars was taken against them in the Superior Court of Polk County on or about February 17, 2014.

(2)

appellees were never advised of a court date or given an opportunity to offer a defense.

(3)

Miles J. Mammage has been incarcerated since November 4, 2013 at the Federal Prison Camp at Talladega, Alabama. Appellees notified the parties of his incarceration prior to his surrender date and never received any notice of a trial or trial date from the Superior Court in Polk County where a judgement was filed.

(4)

Appellees do not have a copy of the judgement and have no access to the internet in prison to attach a copy. Appellee has requested a copy be sent for filing with this Court. Appellees further ~~have~~ no ability to file case citations in support of his appeal without access to the internet.

(5)

Appellees simply appeal on the sole issue that no notice of a trial date was ever sent to his known address in Talladega, Alabama.

Therefore, it is respectfully requested the judgement against Appellees be reversed.

March 17, 2014

Miles J. Mammage
For Miles J. Mammage P.C.
and individually, appellees

c.c.

Darrel Hemphill
1718 Peachtree Street
Suite 599
Atlanta, Ga 30303

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

March 28, 2014

Mr. Phillip L. Freeman
GDC550474 L-1
Macon State Prison
Post Office Box 426
Oglethorpe, Georgia 31068

RE: A13A1007. Phillip L. Freeman v. The State
A13A1442. Phillip L. Freeman v. The State

Dear Mr. Freeman:

The Court of Appeals dismissed the appeal in A13A1007 and disposed of it by order dated February 22, 2013. The remittitur issued on March 13, 2013.

The appeal in A13A1442 was disposed by opinion on August 22, 2013. The Court of Appeals affirmed the jurisdiction of the trial court. The remittitur issued on September 6, 2013.

The opinion in A13A1442 consists of 4 pages. Copies are $1.50 per page in this Court. A pauper status does not excuse you from the copy fees in this Court and the Court of Appeals of Georgia is not subject to the Open Records Act. If you would like to purchase a copy of the opinion in A13A1442, please send your check or money order in the amount of $6.00 to the above letterhead address specifying you would like a copy of the opinion and your request will be processed and sent to you by return mail.

If you would like a copy of the one-page order in A13A1007, please include an additional $1.50.

The remittiturs, in each of the referenced appeals have been issued, divesting this Court of any further jurisdiction. The cases are therefore, final.

Sincerely,

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

SEC/ld

3/17/14

Philip L. Freeman
550474, L-1, PO Box 426
Oglethorpe, GA 31068

RE: REQUEST FOR
EXTENSION TO FILE
Case No. 12CV60563
Gordon County

Clerk of Gt Court of Appeals:

Please grant me an extension of time in which to file an appeal to the verdict and judgement entered on March 6, 2014.

Plaintiff avers that is indigent, pro se and ~~diligent~~ diligent in preparing his appeal.

Plaintiff thanks the Clerk in advance.

Respectfully,

Philip Freeman

cc: file

SEND TO: CLERK, 334 STATE JUD. BLDG.
ATL, GA 30334

SIGN

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 1, 2014

Mr. Spencer Gandy
Spencer Gandy, LLC
8302 Dunwoody Place • Suite 355
Atlanta, Georgia 30350

Dear Mr. Gandy:

I am returning the "Motion for Extension of Time to File Appellants' Brief" received in this office on March 26, 2014. This office cannot locate when you were admitted to practice in the Bar of the Court of Appeals. Please feel welcomed to stop in to the clerk's office during business hours for admittance. We ask that you phone at least 30 minutes prior to your arrival. Then, upon your admittance to the Bar of the Court of Appeals of Georgia, you may submit the extension.

Sincerely,

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

SEC/ld
Enclosures

Law Offices
SPENCER GANDY LLC
8302 Dunwoody Place
Suite 355
Atlanta, Georgia 30350

TELEPHONE: (770) 998-1997 spencer@gandyandrice.com FACSIMILE: (770) 998-1967

March 26, 2014

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

Re: Theodore Kane Enterprises, LLC, et. al,
v. LSREF2 Apex 3, LLC, Appeal Case No. A14A1295

Dear Sir/Madam:

Enclosed please find the original and two copies of Appellants' Motion for Extension of Time to File Appellants' Brief.

I have been in communication with your office as when I attempted to register for efile, the report back was that I was not admitted to practice before the Court of Appeals. I was in fact admitted, and I have spoken with Mr. Castlen and Ms. Zilton, and Ms. Zilton is working on finding the date of my admission.

I have enclosed addressed, stamped envelopes and request that a stamped "filed" copy of the motion be returned to counsel.

Thank you.

Sincerely yours,

Spencer Gandy

cc: Lisa Harper, Esq.

IN THE COURT OF APPEALS

STATE OF GEORGIA

THEODORE KANE ENTERPRISES, LLC ET AL.,	)	
Appellants,	)	
vs.	)	CASE NO. A14A1295
LSREF2 APEX3, LLC,	)	
	)	
Appellee.	)	

MOTION FOR AN EXTENSION OF TIME

TO FILE APPELLANTS' BRIEF

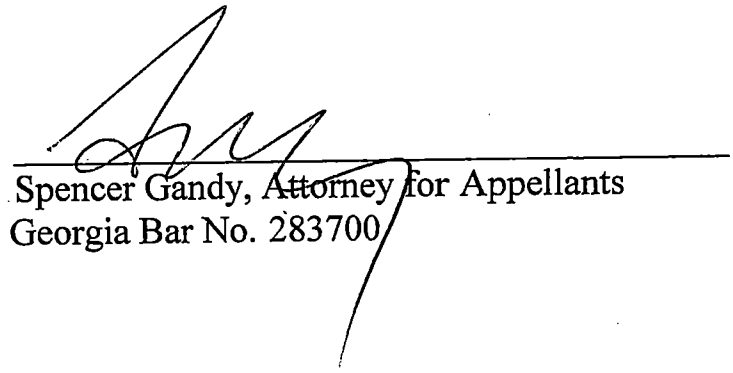
COMES NOW, SPENCER GANDY, attorney for Appellants, and files this Motion for An Extension of Time to File Appellants' Brief pursuant to Rule 16(b), Rules of the Court of Appeals of the State of Georgia.

Appellants' attorney requests an extension of twenty (20) days to file Appellants' brief. This motion is based on the two primary facts. First, Appellants' attorney recently has had a number of communications with counsel for the Appellee with regard to settlement. At this point prospects for a resolution

of the case appear favorable, and settlement would eliminate the need to pursue the appeal. Second, Appellants' attorney current workload is significant leaving him less than desirable time to devote to the preparation of the brief in this case. Therefore, additional time is needed and requested to ensure that a quality brief is prepared on behalf of Appellants, should one be necessary.

Given both reasons, an additional twenty (20) days is requested by Appellants' attorney.

Respectfully submitted this 26 day of March, 2014.



Spencer Gandy, Attorney for Appellants
Georgia Bar No. 283700

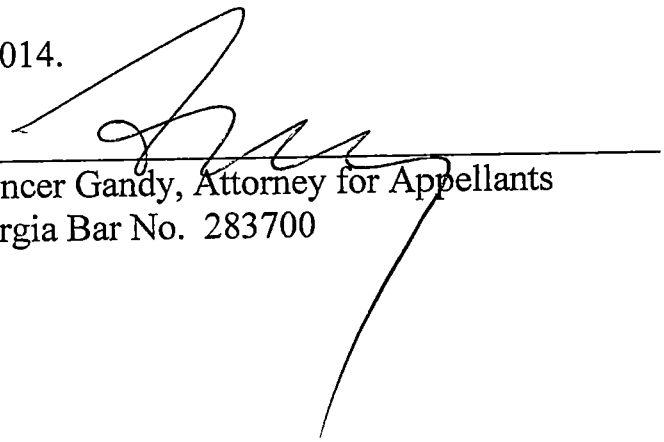
Spencer Gandy LLC
8302 Dunwoody Place, Suite 355
Atlanta, GA 30350
Phone: (770) 998-1997
Fax: (770) 998-1967
Email: Spencer@GandyandRice.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the within and foregoing Motion for Extension of Time to File Appellants' Brief upon Appellee by depositing a copy of same in the United States Mail, in an envelope to Appellee's attorneys with sufficient postage affixed thereto to assure delivery, addressed as follows:

Lisa F. Harper, Esquire
Taylor, Feil, Harper, Lumsden & Hess
3340 Peachtree Road, Suite 250
Atlanta, GA 30326

This 26 day of March, 2014.



Spencer Gandy, Attorney for Appellants
Georgia Bar No. 283700

Spencer Gandy LLC
8302 Dunwoody Place, Suite 355
Atlanta, GA 30350
Phone: (770) 998-1997
Fax: (770) 998-1967
Email: Spencer@GandyandRice.com

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 1, 2014

Lynn L. Carroll, Esq
Siegel & Golder
One Premier Plaza
5605 Glenridge Drive • Suite 690
Atlanta, Georgia 30342

RE: A13A2235. Robert L. Tatum v. CharterBank, et al.

Dear Ms. Carroll:

I am in receipt of your letter of March 26, 2014 regarding the release of the Remittitur. In accordance to the rules of the Court of Appeals, the remittitur is held an additional 30 days after a Notice of Intent is filed. The remittitur will be released on May 1, 2014.

Sincerely,

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

SEC/ld

SIEGEL & GOLDER

ATTORNEYS AT LAW

ONE PREMIER PLAZA
5605 GLENRIDGE DRIVE
SUITE 690
ATLANTA, GEORGIA 30342

LYNN L. CARROLL
E-MAIL: llc @ sglegal.com

TELEPHONE: (404) 252-3000
FACSIMILE: (404) 252-3030
DIRECT LINE: (678) 553-3125

March 26, 2014

VIA REGULAR MAIL

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

Re: Robert L. Tatum vs. CharterBank, Court of Appeals, State of Georgia, Case No. A13A2235

Request for Remittitur

Dear Mr. Castlen:

This correspondence is a request that the Court of Appeals of Georgia issue a Remittitur to the trial court in the above-referenced matter. Based on an appeal filed by Mr. Tatum from the trial court judgment against him, this Court issued its Order on February 27, 2014 upholding the decision. Pursuant to the Supreme Court of Georgia Rule 38(1), Mr. Tatum timely filed a Notice Of Intention To Apply For Certiorari on March 10, 2014. However, Mr. Tatum has not filed a Petition for Certiorari with the Clerk of the Supreme Court which, pursuant to Rule 38(2), must be filed within 20 days after the date of entry of the Order. The 20 days ran through March 19, 2014. My office has checked several times with the Clerk of the Supreme Court to find out if a Petition for Certiorari or any other pleading has been filed, but there is no filing of record.

Mr. Tatum has missed the deadline to file the Petition for Certiorari. CharterBank requests that the Court of Appeals issue a Remittitur in the pending matter.

Sincerely,

Lynn L. Carroll

LLC:ah
cc: Robert L. Tatum

30 days after NOI
is filed

1 May before it goes

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 1, 2014

Ms. Jaqvetta D. Bady
Post Office Box 3324
Hampton, Virginia 23663

Dear Ms. Bady:

I am in receipt of the Notice of Appeal in the above matter. 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.

Your Notice of Appeal did not include a Certificate of Service. A Certificate of Service must accompany your Notice of Appeal. It must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must be actually 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.

I am returning the Notice of Appeal to you.

Sincerely,

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

SEC/ld

STATE OF GEORGIA :

IN THE SUPERIOR COURT OF COLUMBIA COUNTY
OF AUGUSTA COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,
APPELLEE;

VS. CASE NO. 2011-CR-0304

JAQVETTA D. BADY,
APPELLATE;

NOTICE OF APPEAL

NOTICE IS given that jaqvetta d. bady, appellate 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 march, 2014. The clerk shall prepare and 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, has jurisdiction of this appeal because the issues involved are trial court palpable errors, and material facts has been overlooked 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 opposing counsel , chief district attorney of augusta county with a copy of this notice of appeal by u.s. prepaid 1st. class postage, via certified return receipt to her at: 735 james brown blvd,augusta,georgia 30901.

this the 27th day of MARCH, 2014.

Jaqvetta D. Bady

COPY
ORIGINAL SENT T
COLUMBIA COUNTY
FOR FILING

IN THE SUPERIOR COURT OF COLUMBIA COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
v.	)	**Criminal Action File No.**
	)	**2011-CR-0304**
JAQVETTA D. BADY,	)	
	)	
Defendant.	)	

ORDER

The above-styled matter is before the Court on Defendant's Petition for Writ Of Error Coram Nobis that was filed in Columbia County. Defendant's petition cites violations of both procedure and fairness, as well as ineffective assistance of counsel. As a petition for writ of error coram nobis is the ancestor of an extraordinary motion for new trial based on newly discovered evidence, the prerequisites for issuing a writ of error coram nobis or for granting an extraordinary motion for new trial based on newly discovered evidence appear to be identical. Before a court authorizes either, it is generally required that the moving or petitioning party base the pleading on facts which are not part of the record and which could not by due diligence have been discovered at the time of the trial. The Petitioner here has failed to present any newly discovered evidence to warrant the granting of said petition. Therefore, having considered said Petition, the same is hereby DENIED.

WHEREFORE, IT IS ORDERED that the aforementioned petition is hereby DENIED.

SO ORDERED, this 6th day of March, 2014.

J. Carlisle Overstreet
Chief Judge, Superior Court
Augusta Judicial Circuit

CERTIFICATE OF SERVICE

I do hereby certify that on this day I served a copy of the within and foregoing ORDER upon the following:

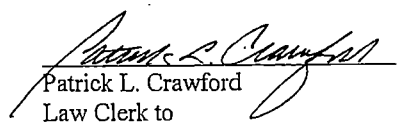
Ms. Jaqvetta Douglas Bady
P.O. Box 3324
Hampton, VA 23663

District Attorney
Augusta Judicial Circuit
735 James Brown Blvd.
Augusta, Georgia 30901

Office of the Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334

by depositing a copy of the same in the United States Mail in a properly addressed envelope with adequate postage affixed thereon.

This 6th day of March, 2014.



Patrick L. Crawford
Law Clerk to
J. Carlisle Overstreet
Chief Judge, Superior Court
Augusta Judicial Circuit

COLUMBIA COUNTY CLERK OF SUPERIOR COURT
640 Ronald Reagan Drive
Post Office Box 2930
Evans, Georgia 30809

CINDY MASON
CLERK

TELEPHONE
(706) 312-7139

Date: 3/7/14

Case No.: 2011CR0304

Dear Sir or Madam:

We are unable to process your request at this time due to the following reasons. If you will correct the problem and return the documents to us we will record them.

☐ Filing Not Prepared on Form Prepared by Administrative Office of the Courts as Required by O.C.G.A. 9-10-14.

☐ Filing Not Accompanied by Proper Affidavit of Indigency with a Sworn Financial Statement Including Such Information as Inmates Custodial Account as Required as O.C.G.A. 9-10-14.

☐ All Records Request, Mandamus, Pauperis Affidavits, Habeas Corpus, etc. must be on Administrative Office of Courts Forms. No Handwritten Forms.

☐ Requested Documents are Not Filed at this Time.

☐ Indictment Number or Arrest Date Needed. Please Include the Indictment Number on all Correspondence.

☐ Transcript not currently filed. ☐ Contact the Court Reporter.

☐ Before this office will provide you with copies of the documents you seek free of charge, you must make a showing of necessity. You may attempt to show necessity by complying with the procedures set forth in the case of *Mydell vs. Clerk, Superior Court of Chatham County*, 241 Ga. 24, 243 S.E.2d 72 (1978).

☐ Contact your Attorney.

☐ Documents Must Bear Original Signature.

☑ Other: Enclosed is your copy of the Notice of Motion for Writ of Error Coram Nobis you submitted for filing.

Thank you for your cooperation in helping us to serve you better.

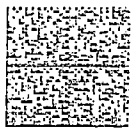
Superior Court Criminal Division
Columbia County Clerk of Court

Clerk of Court
P.O. Box 2930
Evans, GA 30809

neopost
03/10/2014
US POSTAGE $02.03[9]
ZIP 30809
041L11211193

Jaqretta Bady
P.O. Box 3324
Hampton, VA 23663

J. CARLISLE OVERSTREET
CHIEF JUDGE, SUPERIOR COURT
AUGUSTA JUDICIAL CIRCUIT
735 JAMES BROWN BLVD., SUITE 4203
AUGUSTA, GEORGIA 30901-2974



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Ms. Jaqvetta Douglas Bady
P.O. Box 3324
Hampton, VA 23663

23663-3324 B004

COURT OF APPEALS OF GEORGIA

JAQVETTA D. BADY,
APPELLANT

VS.

STATE OF GEORGIA,
APPELLEE

CASE NUMBER

2011-CR-0304

PAUPER'S AFFIDAVIT

COMES NOW JAQVETTA D. BADY FIRST BEING 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 and proceed without having to pay filing fees.

this the 27 day of MARCH, 2014.

Jaqvetta D. Bady

(APPELLANT JAQVETTA D. BADY)

: P.O. BOX 3324,HAMPTON, VA. 23663.PH(757)559-2977

Sworn to subscribed before me

this the 27 day of MARCH, 2014.

Jean L Abinanti

NOTARY PUBLIC

JEAN LOUISE ABINANTI
NOTARY PUBLIC
REGISTRATION # 7570957
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
11/30/17

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 2, 2014

Mr. Marcel Gordon
GDC764664
Rogers State Prison
1978 Georgia Highway 147
Reidsville, Georgia 30453

Dear Mr. Gordon:

I am in receipt of your letter addressed to Judge Michael P. Boggs of this Court. Pursuant to the Code of Judicial Conduct and the rules and the policies of this Court, the judges of this Court are not permitted to communicate with parties who have a case before the Court or which may come before the Court.

Judge Boggs asked that I respond. As an appellate judge, he is unable to act on your case or provide you any legal advice. The materials you submitted are being returned to you. I recommend that you provide these documents to your attorney.

Sincerely,

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

SEC/ld
Enclosures

March 19, 2013
Marcel Gordon #764664
Rogers State Prison
1978 GA Hwy 147
Reidsville, GA 30453

Honorable Judge Michael P. Boggs
Georgia Court of Appeals
47 Trinity Avenue, Suite 501
Atlanta, GA 30334

Dear Judge Boggs,

My name is Marcel Gordon and I am an inmate at Rogers State Prison. The reason I am contacting you is because there doesn't seem to be a corrective measure in resolving the issues of my unconstitutional conviction within the Fulton County Superior Court.

On September 23, 2005, I pled guilty to 2 counts of armed robbery and 8 counts of aggravated assault with intent to rob and received a 20 year sentence with 18 years to serve in confinement. The taking of this plea (which was a blind plea) occurred during the second day of my jury trial. On this same day, I had fired my trial attorney upon discovering that he had not investigated the obvious facts of my 2 cases and had not examined nor actually seen the tangible evi-

dence which was in fact used against me during my jury trial. Basically, this attorney proceeded to represent me during a jury trial without being aware that I had been charged and indicted for robbing several people who were never robbed, and I also pled guilty to robbing someone without being indicted for robbing this person (case # 05SC297106), even thou this person was the actual victim who was robbed at gun-point. The written statements and sworn testimony of these people proves this.

After pleading guilty, I later proceeded to withdraw my guilty plea (which was timely filed) and was then appointed new counsel to assist me in withdrawing my guilty plea, but I never received such assistance for it. As you read the accompanying brief, you will see the injustice I have received from the Fulton County Superior Court regarding the twice denial of my Motion to Withdraw Guilty Plea without the benefit of counsel, as well as the Court's failure to advise me of my right to direct appeal it's decision in denying my motion to withdraw, and the Court's denial of my Out-of-Time Appeal while being aware of its errors. I consider this an abuse of discretion

I strongly urge you to read what I have stated in the accompanying pages with this letter, to help provide me with a remedy to correct such manifest injustice.

I am fully aware of your position as an appellate court judge, whereas, you are not allowed to give a litigant legal advice, but I was told by someone at the Atlanta Journal-Constitution that I should write you and explain my situation.

I thank you for your time and I look forward to your reply.

Respectfully,

Marcel Gordon

The following letter is in reference to "an unreasonable application of clearly established federal law" in which Judge David Todd Markle of the Fulton County Superior Court has applied in denying my motion for Out-of-Time Appeal. My motion for out-of-time appeal was the result of me being denied my timely filed Motion to Withdraw Guilty Plea without being represented by counsel. My motion to withdraw guilty plea was denied by Judge Markle as well as my initial motion to withdraw guilty plea, which was denied by trial judge Michael D. Johnson. Both motions were denied without the benefit of counsel. I write you this letter to inform you how this court is denying me a fair appellate proceeding, and how this Court is holding me accountable for the erroneous actions of my prior appointed attorney, as well as the erroneous actions of the trial court in which my motion to withdraw guilty plea was initially filed.

ORDER DENYING THE MOTION FOR OUT OF TIME APPEAL

On page 2 of the Order denying my Motion for Out of Time Appeal, Judge Markle stated that the Court (trial court) never ruled on my Motion to Withdraw. This corroborates the fact that the trial judge (Judge Michael D. Johnson) failed to hear and decide matters assigned to him which is a violation of Code of Judicial Conduct Canon 3 (B)(1) which is also supported by the Supreme Court of Georgia's case law ruling In The Matter Of: Inquiry Concerning A Judge; JQC NOS. 01-44, 01-73, 01-89, 01-90; 275 Ga. 404; 566 SE2d 310 (2002). On this same page, Judge Markle has also corroborated the fact that on October 13, 2005, my "defense counsel filed the Motion to Withdraw Guilty Plea or In The Alternative, Motion To Modify Sentence. And also..."New counsel was then appointed and filed a Motion for Writ of Habeas Corpus on June 7, 2006."

I now bring to your attention the fact that a defendant is not entitled to the representation of counsel to assist him or her with a writ of habeas corpus. This is not permitted by federal law or state law. SEE case law Davis v. Thomas, 266 Ga. 835; 471 SE2d 202 (1996) and Gibson v. Turpin, 270 Ga. 855; 513 SE2d 186 (1999) in which the Supreme Court of Georgia held: "The constitutional right to effective assistance of counsel does not apply in habeas corpus proceedings. Neither is there a right to appointment of counsel

in a habeas corpus proceeding."..." There is no federal or state constitutional right to appointed counsel in Georgia habeas corpus proceedings."

The Supreme Court of Georgia also held in its earlier ruling in Nolley v. Caldwell, 229 Ga. 441; 192 SE2d 151 (1972) that: ""It is well settled by decisions of this court that the constitutional right of counsel does not apply in a habeas corpus proceeding, which is not a criminal prosecution."

With this being said, it is quite clear and should've been very clear to Judge Markle that it was error for my appointed counsel for plea withdrawal purposes to file a writ of habeas corpus motion for me without being appointed to do so, which is not allowed by law. Had the trial court in fact appointed counsel to assist me with a writ of habeas corpus, such appointment would've been deemed unlawful, whereas, the Supreme Court of Georgia had also ruled that " we know of no statute, case, or constitutional provision which would permit a trial judge to appoint counsel to a habeas petitioner, to be paid out of state or county funds." This decision was that Court's two separate rulings in Willis v. Price, 256 Ga. 767; 353 SE2d 488 (1987) and State v. Davis, 246 Ga. 200; 269 SE2d 461 (1980).

With this being said, there is no reason for anyone to assume that I was appointed counsel to assist me with a writ of habeas corpus motion...a motion in which I myself had no knowledge of beforehand or at the time of its filing.

In addition to this, I direct your attention to the transcripts of the habeas corpus hearing in question on page **3** lines **2** and **3** in which the trial court (Judge Michael Johnson) addressed my appointed counsel for plea withdrawal purposes, by saying: "Mr. Marks" (Richard Marks), "you represent Mr. Gordon in this matter. This is a Motion to Withdraw the Plea."

It was made clear on the record, what the proceeding at hand was and what my appointed counsel's sole purpose was. But instead, my appointed counsel totally disregarded my motion to withdraw guilty plea and its scheduled hearing, and proceeded to present the motion for writ of habeas corpus. And Judge Michael Johnson allowed this to happen. SEE page **3** lines **4** through **9** of my habeas corpus transcripts in which this same attorney stated: "May it please the Court, we have two motions pending: One is a motion for writ of habeas corpus relief, where we challenge the voluntary nature of the plea. The second Motion is a motion that was filed by Mr. Butterfield to modify the sentence."

There is no other mentioning of my motion to withdraw guilty plea. My appointed attorney went so far as to mention the motion to modify sentence, but never mentioned the motion to withdraw guilty plea, when in fact, the motion to withdraw guilty plea and the motion to modify sentence were within the same motion. This appointed attorney never presented the motion to modify sentence either.

In the Supreme Court of Georgia's ruling in Fortson v. State, 272 Ga. 457; 532 SE2d 102 (2000), this Court held: "The U.S. Const. amend. VI right to counsel in criminal prosecutions applies to every critical stage in a criminal prosecution. A critical stage in a criminal prosecution is one in which a defendant's rights may be lost, defenses waived, privileges claimed or waived, or one in which the outcome of the case is substantially affected in some other way." This Court also held in *Fortson* that : "Many federal and state courts hold that the U.S. Const. amend. VI right to assistance of counsel attaches to the preparation and presentation of a motion to withdraw a guilty plea. The Supreme Court of Georgia follows this line of caselaw."

In addition to this, it was further held in *Fortson*, that: "...where a criminal defendant is denied the right to counsel at proceedings related to a motion to withdraw a guilty plea, the judgment must be reversed and remanded to the trial court with instructions to appoint counsel and conduct a new hearing on the accused's motion for plea withdrawal."

In truth, I had not been afforded counsel to assist me in withdrawing my guilty plea, when in fact, the trial judge, Judge Michael Johnson in his May 2011 Order and Judge David T. Markle in his September 2013 Order denied both my motions to withdraw guilty plea without the benefit and appointment of counsel. Both of these decisions were contrary to "clearly established federal law" as well as state law. The refiling of my motion to withdraw guilty plea was (besides correcting a manifest injustice) to exercise my right to attack my unconstitutional conviction and to advise the trial court of its error in denying my initial motion to withdraw guilty plea without the assistance of counsel.

On page 2 of 4 of Judge David T. Markle's Order denying my motion for Out-of-Time Appeal, Judge Markle stated (in reference to my notification to his Court that my October 2005 Motion to Withdraw was never ruled on) that: "The bases for the Motion to Withdraw Guilty Plea were essentially the same as the Motion for Writ of Habeas Corpus- that (1) Defendant did not enter a knowing, intelligent, and voluntary plea; and

(2) trial counsel provided ineffective assistance of counsel. Defendant also requested that the Court reduce his sentence."

By saying this, Judge Markle is erroneously applying an irrelevant issue to this decision. He has not cited any case law stipulating that the bases of a motion to withdraw guilty plea and the bases of the habeas corpus motion are the same. While it is true that certain grounds for the granting of a motion to withdraw guilty plea are also used in a habeas corpus petition by the same petitioner, there is a major difference in the two. In Gibson v. Turpin, the Supreme Court of Georgia ruled: "habeas corpus is not a criminal proceeding, but is considered to be civil in nature. It is a collateral attack that is separate and distinct from direct review, and occurs only after a prisoner has failed to obtain relief by direct appeal." This Court also held that: "Habeas corpus is a collateral remedy, providing an avenue for upsetting judgments that have otherwise become final. It is not designed as a substitute for direct review. Habeas corpus is not intended to be a means for re-litigating a prisoner's case."

While examining the above ruling in Gibson, I can't understand why a judge (Judge Michael Johnson) would permit an attorney to argue a habeas corpus motion without being appointed to do so, but also without first exhausting the remedy of direct review, which is essentially the timely filed motion to withdraw guilty plea and direct appeal of the trial court's denial of the motion to withdraw guilty plea...both of which a defendant is entitled to be represented for, and both of which appointed counsel for my defense failed to provide.

I also can't understand why Judge David T. Markle has failed to understand the error of my being not guaranteed the right to the assistance of counsel for plea withdrawal purposes and my right to the assistance of counsel for direct review of the denial of my motion to withdraw guilty plea. Furthermore, I can not understand why Judge Markle fails to understand the errors of the previous court (which was Judge Johnson) in: (1) failing or refusing to hear and decide on my motion to withdraw guilty plea; (2) permitting my appointed counsel for plea withdrawal purposes to totally disregard my motion to withdraw, and instead argue a motion for writ of habeas corpus (in which he was not appointed to do so); (3) Judge Johnson's denial of my May 2011 resubmitted Motion to Withdraw Guilty Plea without the benefit of counsel to assist me in such plea

The main purpose of me advising you of this is to get Judge Markle to hear and decide on my Motion to Withdraw Guilty Plea (with appointed counsel) or In the Alternative Motion to Modify Sentence. My entire sentence is a 20-year sentence with a mandatory 18 years to serve. It is obvious that I am trying to either have my sentence reduced, or have my guilty plea withdrawn to correct a manifest injustice. The guilty plea I accepted was a blind plea, which was counseled by an ineffective attorney. The ineffectiveness of this attorney (whose name is Torris J. Butterfield) resulted from his failure to investigate the obvious facts of my case, which is mainly the indictment, and the written statements made by the alleged victims who are named in the indictment.

Such victims who are named in this indictment are said to have been robbed at gunpoint by me, but were never robbed at all. The written statements and sworn testimony made by these people clearly show that they were never robbed nor had they witnessed a robbery take place, and neither of these people was in control of the money taken. These people encountered a masked suspect after the completion of this robbery. None of these people who are falsely mentioned as being robbery victims were aware that this robbery had taken place until after the masked suspect fled the scene after completing the robbery. In addition to this error, was the failure of the armed robbery count of this indictment to contain the name of the actual victim who was robbed at gunpoint. This victim was the only reason I was named as the suspect in these two (2) robberies. Without this person, this particular armed robbery charge does not exist. This person was the only one who was robbed at gunpoint, but the State mistakenly omitted his name from the armed robbery count of this indictment. This error resulted in me pleading guilty to robbing this person, when in fact, I was never indicted for robbing this person (indictment #05SC29706). This is a harmful error of the State, as well as an error of my attorney, and such errors of me pleading guilty to committing crimes which were never committed makes my entire conviction void.

Had my attorney examined the indictment and witnesses' statements pertaining to these particular defects and false charges, he would have been aware of such deficiencies, which would have prevented me from pleading guilty to false charges. While it is the sole decision of a criminal defendant to plead guilty, counsel for my defense advised me to plead guilty while being aware of the fact that either I was charged with robbing people

who were never robbed, or he was not aware of these false charges but still advised me to plead guilty to them. Had my attorney not advised me to plead guilty to these false charges, while at the same time being aware of his ineffectiveness for failing to investigate the facts of my case, I would not have pled guilty, but would have insisted on proceeding with trial...as my jury trial had been in process on its second day of trial when I pled guilty.

In reference to the trial court's statement on page 2 of 4 in its Order denying my Out-of-Time Appeal, saying that: "the record indicated that Defendant was satisfied with counsel's representation"...I find such expression irrelevant given the fact that..."In reviewing counsel's performance, the focus is not the accused's evaluation of his counsel's performance"...and that..."no weight is attached to the accused's expression of satisfaction or dissatisfaction with counsel." SEE Supreme Court of Georgia's ruling in Harden v. Johnson, 280 Ga. 464, 629 SE2d 259 (2006).

While there is some truth in what is said on the plea record as far as the plea colloquy is concerned, my guilty plea hearing was not effectively counseled. And had the record of my jury trial been examined by Judge Johnson (the presiding judge), it would've been made aware that I had fired my trial attorney during trial for his failure to investigate and examine the facts and evidence of my case, and that I was dissatisfied with his representation. My attorney's representation was deficient and substandard because of his failure to do so. In addition to me not being effectively counseled during the time I pled guilty, my guilty plea does not contain a factual basis for my guilty plea. This alone renders my guilty plea invalid. All of the above errors and "issues on appeal (for direct appeal purposes) could have been resolved by facts appearing in the record," had I in fact been granted a motion for Out-of-Time Appeal.

While I am aware that a judge (especially an appellate court judge) can not act as counsel for a litigant, I am only asking that you be willing to examine my appeal of the trial court's decision in denying my Motion for Out-of-Time Appeal, whereas, I believe I am out of time to appeal that Court's decision because of Judge David Todd Markle's error of forwarding me what he thought to be his Order denying my motion. What was sent to me was another inmate defendant's Order denying him a motion instead. I didn't receive

Judge Markle's Order denying my motion until a month later. This discrepancy has been documented by the Rogers State Prison's mailroom officer (who forwarded the wrong mail back to Judge Markle's chambers, as well as the staff attorney or case manager for Judge Markle.

I am still learning how to appeal any and all errors of my conviction and the denials of any relief I have sought or will seek in the near future. I just want a fair ruling on my petition for some type of relief.

Respectfully,

Marcel Gordon

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 3, 2014

Mr. Hosea Griffin
GDC174258
Autry State Prison
Post Office Box 648
Pelham, Georgia 31779

Dear Mr. Griffin:

In response to your Appellant's Brief received in this office, we do not have a current case styled in your name pending in this Court.

Sincerely,

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

SEC/ld
Enclosure

In The Court of Appeals
State of Georgia

Hosea Griffin Appellant, Vs. The State of Georgia Appellee.	Docket No A14D0235 Docket Date: February 20, 2014

Brief of Appellant

Prepared by:

Hosea Griffin (Pro Se')
G.D.C. # 174258
Autry State Prison
Post Office Box 648
Pelham, Georgia 31779

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 3, 2014

To: Mr. Norman Davis, GDC1043303, Macon State Prison, Post Office Box 426, Oglethorpe, Georgia 31068
Docket Number: A14A0927 **Style:** Norman Davis 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: **As long as you are represented by an attorney, you cannot file pleadings on your own behalf. 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. 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 "Appellant's Second Motion to Dismiss the Above Styled Appeal for Lack of Jurisdiction" is being returned to you. You cannot file anything to the above referenced appeal yourself, our records still indicate you are represented by an attorney. You must ask your attorney to file for you.

In The Court Of Appeals
The State Of Georgia

Norman Davis *
1043303
Appellant *

V.
The State of Georgia *
Appellee *

Case No# A14A27

Appellant's Second Motion to Dismiss The Above Styled Appeal For lack Of Jurisdiction

Norman Davis
1043303
Macon State Prison
P. O. Box 426
Dalethorpe Ga 31068

In The Court Of Appeals
The State of Georgia

Norman Davis *
1043303
Appellant *
v.
The State of Georgia *
Appellee
*

Appeal No# A14D927

Comes now Norman Davis, Appellant in the above styled action to move this honorable court to dismiss the instant appeal for lack of jurisdiction.. whereas for just cause as follows...

(1.)

The trial court of Decatur County denied appellants motion for new trial upon order filed November 20, 2012.

(2.)

No Notice of Appeal was filed and the 30 days expired December 20, 2012

(3.)

Appellant filed a petition for writ of habeas corpus March 15, 2013 case # 2013 CV 107 Macon County Superior Court

(4.)

A hearing was held in Macon Habeas Court on November 14, 2013 evidence was received.

(5.)

The Macon Court is now pending proposed final order since its Nov 14. 2013 hearing

(6.)

However the trial court of Decatur County on Dec 9. 2013 filed a order absent any hearing ordered Michael Tarleton to file out-of-time appeal which is the instant appeal A14D927

Law

The Supreme Court of Georgia is the proper court of jurisdiction of appellate review of habeas issues. The enumeration of errors raised in this instant appeal, is listed and pending grounds for relief in the Macon Court. The Decatur County Court Dec 9. 2013 order is a irregular judament being subsequent to the Macon County Court hearing and after the 30 day expired for Notice of Appeal. Wherefore the Decatur Court order Dec 9. 2013 is void upon lack of jurisdiction. Therefore this honorable court lack jurisdiction.

Thereby Appellant request that the instant appeal be dismiss.

Submitted this 25 day of March 2014

Norman Davis

Norman Davis
1043303
Macon State Prison

Appellant swear under penalty of perjury that the foregoing is true to the best of his knowledge.

Certificate of Service

This is to certify that I have served a true and correct copy of the foregoing Motion (2nd) to dismiss the instant appeal through U.S. mail with proper address and sufficient postage unto the below listed.

Served.

Joseph Mulholland
D.A. South Ga. Circuit
P.O. Box 1870
Bainbridge, Ga. 39818

This 25th day of March 2014

Norman Davis

Norman Davis
1013303
Macon State Prison
P.O. Box 426
Oglethorpe, Ga. 31068

Norman DAVIS
1043303
Macon State Prison
P. O. Box 426
Oglethorpe Ga 31068

To: Stephen E. Castlen, Clerk
Clerk and Court Administator
Court of Appeals of Georgia
334 State Judicial Building
Atlanta. Ga. 30334

Date March 25. 2014
Re: Davis v. The State Appeal No# A140927

Dear Mr Castlen,

Please find enclosed my second motion to dismiss this appeal. Please file the same upon proper order of this honorable court.

Thank You!

This 25th day of March 2014
Norman Davis
Norman DAVIS
1043303
Macon State Prison

c.c. D.A. of Decatur County
Alleged Appellate Counsel Michael W. Tarleton

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 3, 2014

John D. Carey, LLC
3646 Vineville Avenue
Macon, Georgia 31204

RE: Notice of Leave of Absence
A14A0695. Crandall Postell, et al. v. ALFA Insurance Corporation, et al.

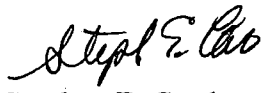
Dear Mr. Carey:

I am in receipt of the Notice of Leave of Absence submitted by you dated March 31, 2014 addressed to the Clerk of the Court. Pursuant to Court of Appeals Rule 9(f), the Court does not recognize nor grant leaves of absence.

Please designate someone in your office to be responsible for the above appeal. You may also be able to check the case status on the Court's web docket from a remote location. The address is: www.gaappeals.us go to the hyperlink Docket/Case Search and follow the directions.

If you have any questions or if I may be of assistance to you, please do not hesitate to contact me. I am returning your documents to you.

Sincerely,



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

SEC/ld
Enclosures

TO: All Judges, Clerks of Court and Counsel of Record

FROM: John D. Carey

RE: Notice of Leave of Absence

DATE: March 31, 2014

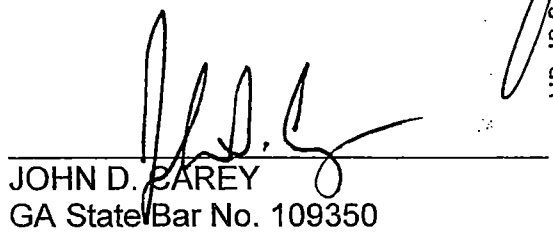
COMES NOW John D. Carey, and respectfully notifies all Judges before whom he has cases pending, all affected Clerks of Court and all opposing counsel, that he will be on leave pursuant to Georgia Uniform Court Rule 16.

1. The period of leave during which John D. Carey will be away from the practice of law is as follows:

   June 6 – June 19, 2014

2. All affected Judges and opposing counsel shall have ten (10) days from the date of this Notice to object to it. If no objections are filed, the leave shall be granted.

Respectfully submitted, this 31st day of March, 2014.



JOHN D. CAREY
GA State Bar No. 109350

JOHN D. CAREY, LLC
3646 Vineville Avenue
Macon, GA 31204
(478) 477-9040

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing Notice of Leave of Absence upon all Clerks, Judges and counsel of record listed on the attached Exhibit "A" by depositing the same in the U.S. Mail with adequate postage affixed thereto.

This 31st day of March, 2014.

JOHN D. CAREY
GA State Bar No. 109350

JOHN D. CAREY, LLC
3646 Vineville Avenue
Macon, GA 31204
(478) 477-9040

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

April 4, 2014

To: Mr. Ronald K. Ellis, GDC423764 D-2-111, Hays State Prison, Post Office Box 668, Trion, Georgia 30753

Docket Number: **Style:** **Ronald K. Ellis 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:

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

In The Court of Appeals - State of Georgia

Ronald K. Ellis	Case No.
v.	2002-CR-523 B
The State	

Application For Discretionary Appeal

Ronald K. Ellis
GDC No. 423764; Bldg. D-2-111
Hays State Prison
P.O. Box 668
Trion, Ga. 30753-0668

This Court rather than the Supreme Court has jurisdiction of this matter.
Constitution of the State of Georgia
Art. 6, Sec. 6, Par. 3 (5)

O.C.G.A. 5-6-35

In The Court of Appeals - State of Georgia

Ronald K. Ellis	Case No.
v.	2002-CR-523B
The State	

Application For Discretionary Appeal

Comes Now, Ronald Ellis, pro-se, Defendant in the above styled cause and makes this, his Application For Discretionary Appeal Pursuant to O.C.G.A. 5-6-35

The Proceedings Below

On September 2, 2003 following a jury trial, the Defendant was sentenced to life imprisonment without parole for Kidnapping with Bodily Injury, twenty (20) years with fifteen (15) to serve for Aggravated Battery and twenty (20) years to serve for Aggravated Assault.

On January 10, 2014 Defendant filed a motion for re-sentencing under the new sentencing scheme of OCGA 17-10-6.1 (e)

House Bill 349, section 8, subsection (e) which gives Courts discretion in sentencing.

Defendant's motion was denied by the Hall County Superior Court, The Honorable Kathlene F. Gosselin.

On March 12, 2014 Defendant filed a timely motion For Reconsideration stating that the revised sentencing scheme of O.C.G.A. 17-10-6.1 (e), which gives the Court greater authority to deviate from mandatory minimum sentences for serious violent felonies, is a new rule of substantive criminal law which should be applied retroactively to his case, thus allowing the Court to resentence him under the new guidelines.

Enumeration of Error

1.

The Trial Court Erred when It Failed To Resentence Defendant Under the New Sentencing Scheme of O.C.G.A. 17-10-6.1 (e). (House Bill 349, Sect. 8)

2.

The Trial Court Erred When It Failed To Rule Upon The Retroactive Effect of

The Newly Revised O.C.G.A. 17-10-6.1(e)
(effective date July 1, 2013)

Argument And Citation of Authorities

At the time of his conviction Defendant was sentenced under the original sentencing scheme of O.C.G.A. 17-10-6.1, the applicable statute at the time.

Pursuant to House Bill 349, Section 8 and the revised sentencing scheme of O.C.G.A. 17-10-6.1(e), the sentencing Court would now have jurisdiction to resentence Defendant to less than the mandatory minimum sentence of life without the possibility of parole.

O.C.G.A. 17-10-6.1(e) plainly holds that, "In the Court's discretion, the judge may depart from the mandatory minimum sentence specified in this code section for a person who is convicted of a serious violent felony when the prosecuting attorney and the Defendant have agreed to a sentence that is below such mandatory minimum."

At the time of his sentencing Defendant did not have this opportunity and under the newly created sentencing scheme of O.C.G.A. 17-10-6.1 (e) Defendant's right to due process under the 5th and 14th Amendment's to the United States Constitution and Art. 1, Sec. 1, Par. 1 of the Georgia Constitution has been violated.

Retroactively

First, the question is whether O.C.G.A. 17-10-6.1 (e) applies retroactively? The answer is yes. The Georgia Supreme Court held in Luke v. Battle, 275 Ga. 370, 565 S.E. 2d 816 (2002) that a new rule of procedural law applies to cases pending on direct review under the "pipeline rule", while a new rule of substantive law applies retroactively to cases on collateral review. In Luke, the Supreme Court used a new rule of substantive law created in Brewer v. State, 271 Ga. 605 (1999) and reversed a defendant's conviction for aggravated sodomy.

The question here is whether O.C.G.A. 17-10-6.1 (e) is procedural or substantive.

Head v. Hill, 277 Ga. 255, 587 S.E.2d 613 (2003) laid out how to differentiate between procedural and substantive. "A new rule of criminal law will have retroactive effect if it falls within one of the following two exceptions: new rules that place certain conduct beyond the power of the State to proscribe, that is, a change in substantive criminal law; and watershed rules concerning procedures that are implicit in the concept of ordered liberty and that implicate the fundamental fairness and accuracy of the criminal proceeding." Id at Head v. Hill, 277 Ga. 257, 587 S.E.2d 613 (2003)

Citing Enger v. Erwin, 245 Ga. 753, 267 S.E.2d 25 (1980); Davis v. Lugenbell, 283 Ga. App. 642, 642 S.E.2d 337 (2007) further clarifies the difference stating that "substantive law is that law which creates rights, duties, and obligations" and procedural law is that law which prescribes the methods of enforcement of rights, duties and obligations." Davis gives the example of evidentiary changes as procedural.

The United States Supreme Court and the Georgia Supreme Court have repeatedly held

that a substantive change in case law should be applied retroactively and that a substantive change includes decisions that remove certain conduct from the reach of criminal statutes, see Bousley v. United States, 523 U.S. 614, 118 S.Ct. 1604, 140 L.Ed. 2d 828 (1998); Luke v. Battle, 275 Ga. 370 (2), 565 S.E. 2d 816 (2002); Brewer v. State, 271 Ga. 605 (1999).

Under the new sentencing provisions of Sec. 8, House Bill 349 the Court did now have the discretion under O.C.G.A. 17-10-6.1(c) to depart from the mandatory minimum sentencing and the trial courts failure to resentence Defendant to a lesser sentence was an abuse of discretion which violated Defendant's due process rights under the 5th and 14th Amendments to the United States Constitution and Art. 1, Sect. 1, Par. 1 of the Georgia Constitution.

The trial courts ruling is also contrary to clearly established Federal Law as determined by the Supreme Court of the United States, Bousley v. United States, supra etc. was clearly established at the time Defendant filed his Motion for Re-Sentencing.

Prayer For Relief

Wherefore, Defendant prays this Court Set Aside or Reverse Trial Courts ruling and Grant Defendant the relief as much as the Law and Justice allow. This he will ever pray.

Respectfully submitted this 25th day of March, 2014

Respectfully

x _____

Ronald K. Ellis

GDC No. 423764, Bldg. D-2-111
Hays State Prison
P.O. Box 668
Trion, GA 30753-0668

FORM 2 - PAUPER'S AFFIDAVIT

COURT OF APPEALS OF GEORGIA

Ronald Ellis,	*	
APPELLANT	*	
vs	*	CASE NUMBER
The State,	*	2002-CR-523B
APPELLEE		

PAUPER'S AFFIDAVIT

Comes now Ronald Ellis (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 Application for Appeal (Appellant's brief or Appellant's application) without having to pay filing fees.

This the 25th day of March, 2014.

Ronald R. Ellis
(Your name printed or typed.)

Ronald R. Ellis (Sign your name.)

GDC # 423764, Bldg. D-2-111, Hays State Prison
P.O. Box 668 Trion, GA 30753-0668
(Your complete address and telephone number.)

Sworn to and subscribed before me

this the 28 day of March, 2014.

Sabrina Johnson Notary Public

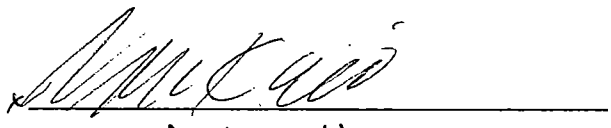
SEAL Commission Expires on Jan 5 2016

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 25th day of March, 2014.

Respectfully submitted,



Ronald K. Ellis

GDC 423764; Bldg. D-2-111
Hays State Prison
P.O. Box 668
Trion, GA 30753-0668

Person(s) served:

Original To:
Office of The Clerk
Court of Appeals
47 Trinity Ave, Suite 501
Atlanta, GA 30334

Clerk of Superior Court
P.O. Box 1778
Gainesville, GA 30503

Office of The District Attorney
P.O. Box 1690
Gainesville, GA 30503-1690

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 4, 2014

Mr. Jonathan Clark
GDC1139456
Smith State Prison
Post Office Box 726
Glennville, Georgia 30427

Dear Mr. Clark:

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

The Court of Appeals does not have the power or authority to appoint counsel for you. Any requests for appointed counsel should be directed to the trial court.

Sincerely,

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

SEC/ld

TO WHOM THIS MAY CONCERN

4-1-14

I need to know the status of my case? I need to know the exact stage its IN? Why I havn't been assigned an appeal lawyer?

My trial lawyer name was Marilyn Primavec. She stid I would be given an appeal lawyer immediately following trial.

That was February 2012.

Please let me know what's going on with my appeal?

THANK YOU.

Jonathan Clark Jonathan Clark

Case# 10SC96947

Jonathan Clark 1139456
SMITH STATE
P.O. BOX 726
Glennville, GA 30427

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 4, 2014

To: Ms. Cecily Considine, 9125 Reinhardt College Parkway, Waleska, Georgia 30183
Docket Number: A13A2454 **Style**: Cecily Considine v. George W. Murphy

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: **The above referenced appeal was affirmed on March 26, 2014. Our records indicate your attorney of record is: Jeffrey Barnes of Barnes Firm, LLP, 990 Hammond Drive, Suite 1150, Atlanta, Georgia 30328. Your motions are being returned to you.**

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

IN THE COURT OF APPEALS

STATE OF GEORGIA

CECILY CONSIDINE

Appellant

vs.

GEORGE W. MURPHY and
MURPHY & McINVALE, P.C.,

Appellees

CASE NUMBER: A13A2454

On appeal from:
Superior Court of Cherokee County
Civil Action No: 11-CV-2615FM

Motion to Substitute Counsel

Comes Now, Cecily Considine, Appellant in the above styled case, hereby respectfully files this Motion pursuant to Rule 9 (d) to Substitute Counsel.

1

Appellant, Cecily Considine, received notice from her attorney, Jeff Barnes, that he no longer would represent her after receiving the ruling from this court on March 26.

IN THE COURT OF APPEALS

STATE OF GEORGIA

CECILY CONSIDINE

Appellant

vs.

GEORGE W. MURPHY and
MURPHY & McINVALE, P.C.,

Appellees

CASE NUMBER: A13A2454

On appeal from:
Superior Court of Cherokee County
Civil Action No: 11-CV-2615FM

Motion For Extension of Time

Comes Now, Cecily Considine, Appellant in the above styled case, hereby respectfully files this Motion pursuant to Rule 16 and Pursuant to the provisions of OCGA § 5-6-39 for extension of time.

1

This Court issued it's ruling on March 26, 2014 on the above styled case.

2

Appellant intends to file a motion for reconsideration.

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 8, 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. ☐ 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: **I have enclosed a copy of the Court's Rule for your review.**

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

ORINGIAL

COURT OF APPEALS
STATE OF GEORGIA

HERSCHEL G. BYRD * CASE NO.
APPELLANT * A14A1027
V. *
STATE OF GEORGIA *

SUPPLEMENTAL TO BRIEF OF APPELLANT

COMES NOW HERSCHEL G. BYRD, PRO SE APPELLANT IN THE ABOVE STYLED CASE AND MAKES THIS HIS **SUPPLEMENTAL TO BRIEF OF OF APPELLANT** PURSAUNT TO **RULE 27** A IN REGARD TO HIS BRIEF THAT ALREADY HAS BEEN FILED AND PRAYERFULLY PURSAUNT TO HIS **MOTION TO SUPPLEMENT BRIEF BY LEAVE OF COURT DUE TO EXTRAORDINARY CIRCUMSTANCES AND FACTS** THAT HAS BEEN SUBMITTED TO THIS COURT.

PART I

THUS IN ADDITION TO THE ENTIRE CONTENT AND MERIT OF THE INITIAL BRIEF THAT HAS BEEN FILED THAT INCLUDES: FACTS OF PROCEEDINGS, ENUMERATION OF ERRORS, ARGUMENT AND -

CTT

CITATION OF AUTHORITIES PERTAINING TO THE TOTALITY OF OBVIOUS RECORD EVIDENT FACTS AND CIRCUMSTANCES SURROUNDING THE GUILTY PLEAS, JUDGEMENT, CONVICTION AND SENTENCES THAT WERE ENTERED AND IMPOSED ON OCTOBER 15, 2007, APPELANT HEREBY RELEVANTLY SUPPLEMENTS VIA SPECIFIC FACTS, ENUMERATION OF ERRORS, ARGUMENT AND CITATION OF AUTHORITIES PERTAINING DIRECTLY TO **ORDER DENYING EXTRAORDINARY MOTION TO CORRECT VOID SENTENCE** THAT WAS SO ORDERED AND FILED BY THE HONORABLE SENIOR JUDGE STEPHANIE MANIE, FULTON COUNTY SUPERIOR COURT ON JUNE 4, 2013 IN THE MANNER AS FOLLOWS:

PART I

ENUMERATION OF ERRORS, ARGUMENT-CITATIONS OF AUTHORITIES

1.

THE COURT ERRED IN DENYING THE APPELLANT RELIEF IN THE MANNER OF BASING ITS DECISION ON MISTAKEN FACTS AND DISREGARDING RECORD EVIDENT MATERIAL FACT AND ISSUE RAISED THAT APPELLANT DID NOT ENTER HIS GUILTY PLEAS -

PURSAUNT TO A PLEA CONTRACT WITH THE COURT AS THE JUDGE MISTAKES AS FACT IN ORDER, BUT PURSAUNT TO A PLEA BARGAIN AGREEMENT OR CONTRACT WITH THE STATE PROSECUTOR. THUS IN NOT FINDING OF FACT THAT APPELLANT'S SENTENCES ARE VOID DUE TO THE TRIAL COURT'S VIOLATION OF DUE PROCESS OF LAW IN INFLICTING THE INJURY OF 20-YEAR AND 5 YEAR CONSECUTIVE SENTENCES INSTEAD OF THE BENIFIT OF THE BARGAIN WHICH WAS A 10-YEAR AND 5 YEAR CONCURRENT SENTENCE THAT INDUCED APPELLANT INTO PLEADING GUILTY.

THE STATE PROSECUTOR PROMISED APPELLANT THAT IT WOULD RECOMEND THAT APPELLANT BE SENTENCED THAT VERY DAY OF OCTOBER 15, 2007 TO 10 YEARS FOR VOLUNTARY MANSLAUGHTER AND 5 YEARS TO RUN CONCURRENTLY FOR POSSESSION OF A FIREARM BY A CONVICTED FELON. FURTHERMORE DEFERRED CONFINEMENT AND A WARNING THAT IF APPELLANT DID NOT RETURN TO COURT AS INSTRUCTED THAT HIS 10 YEAR AND 5 YEAR CONCURRENT SENTENCE WOULD BE INCREASED TO 20 YEARS, (T.P. 8), WHICH WAS RATIFIED BY THE JUDGE, (T.R. 17), AND THEN -

IMPLICITLY REJECTED BY THE JUDGE BY IMPOSING INJURY INSTEAD OF THE BENIFIT OF THE BARGAIN. THUS UNLAWFULLY IMPOSING THAT DAY OF OCTOBER 15, 2007, A NON NEGOTIATED 20 YEAR AND 5 YEAR CONSECUTIVE SENTENCE UNDER OCGA § 17-10-7(C). (T. PGS 18-19). IT IS A UNDISPUTED FACT THAT THE COURT DECLARED THAT IT ACCEPTED THE PLEA AS TENDERED AND NEGOTIATED AND THAT IT WOULD FOLLOW THE STATE'S RECOMENDATION. (TP. 17) HOWEVER THERE IS NOTHING IN THE ENTIRE RECORD THAT SHOWS THAT THE STATE RECOMENDED THAT APPELLANT BE SENTENCED THAT DAY OF OCTOBER 15, 2007 TO A 20 YEAR AND 5 YEAR CONSECUTIVE SENTENCES UNDER OCGA § 17-10-7(C) AS THE JUDGE INDETERMINATELY IMPOSED.

"A JUDGE WHO ACCEPTS THE GUILTY PLEA MUST ADHERE TO THE TERMS OF THE AGREEMENT." SANTO BELLO V. NEW YORK, 404 US. 257, 262 92 SCT. 499 (1971). THUS IT IS WELL SETTLED THAT A PLEA BARGAIN AGREEMENT IS A CONTRACT UNDER GEORGIA LAW WHICH BINDS THE PROSECUTOR AND DEFENDANT." BALDWIN V. BARRETT, 265 GA. 439, 490 (458 SE 2d 619 (1995). SEE SIMON V. STATE, 292 GA. 262 (2013)

"PUBLIC POLICY AND THE GREAT ENDS OF JUSTICE REQUIRE THAT ARRANGEMENT BETWEEN PUBLIC PROSECUTOR AND THE DEFENDANT BE CARRIED OUT." **STATE V. HANSON**, 249 GA. 739, 746 (3) 295 SE 2d 297 (1982). **OCGA § 13-8-2(A)** PROVIDES THAT A CONTRACT AGAINST THE POLICY OF LAW CAN NOT BE ENFORCED. THE TRIAL COURT CLEARLY IMPOSED PUNISHMENT THE LAW DOES NOT ALLOW." **SLAUGHTER V. STATE**, 292 GA. 573, 575 N. 740 SE 2d 119 (2013). THEREFORE THE COURT ERRED IN DENYING RELIEF. **[PLEASE REFER TO INITIAL BRIEF OF APPELLANT PART III ARGUMENT AND CITATION OF AUTHORITIES ENUMERATION 7, (PAGES 30 - 33)]**.

2.

THE COURT ERRED IN DENYING APPELLANT RELIEF IN THE MANNER OF DISREGARDING THE RECORD EVIDENT FACT AND ISSUE RAISED THAT APPELLANT'S SENTENCES ARE VOID IN VIOLATION OF OCGA § 17-10-1(A). WHEREAS THE COURT IMPLICITLY REJECTED THE NEGOTIATED PLEA COMPELLING APPELLANT INTO **INDETERMINATE, INDEFINATE,** NON NEGOTIATED **20 YEAR** AND **5 YEAR** CONSECUTIVE -

5.

SENTENCES VIA THE **THREAT OF INJURY** OF ALLOWING THE MAXIMUM 25 YEAR SENTENCE TO STAND CONTINGENT UPON WHETHER APPELLANT RETURNED TO COURT THE FOLLOWING WEEK PURSAUNT TO THE **HOPE OF BENIFIT** IN THE COURT'S PROMISE TO RESENTENCE HIM TO A LIGHTER SENTENCE OF 10 YEARS THE FOLLOWING WEEK. (TPGS, 17-20) ——— UNDER **OCGA § 17-10-1(A)** THE SENTENCING JUDGE SHALL PRESCRIBE A **DETERMINATE SENTENCE** FOR A SPECIFIC NUMBER OF **MONTHS OR YEARS** AND IN CONFORMITY WITH OTHER STATUTORY SENTENCING REQUIREMENTS. IT IS EVIDENTLY CLEAR THAT THE NON NEGOTIATED CONSECUTIVE SENTENCES THAT THE TRIAL COURT IMPOSED AFTER IMPLICITLY REJECTING THE NEGOTIATED PLEA WERE **VARIBLE** BASED ON FACTORS ENTIRELY BEYOND THE CONTRACT AGREEMENT BETWEEN STATE AND DEFENSE CONTINGENT UPON WHETHER THE APPELLANT RETURNED TO COURT PURSAUNT TO THE **HOPE OF BENIFIT** IN THE COURT'S PROMISE TO RESENTENCE HIM TO A LIGHTER SENTENCE OF 10 YEARS WERE **INDETERMINATE SENTENCES** IN VIOLATION OF **OCGA § 17-10-1 (A)(1)**.

SEE **STATE V. HARP**, 263 GA APP. 8, 9 (587 S.E. 2d 164 (2003). WHEREAT THE COURT FOUND THAT THE TERM OF IMPRISONMENT WAS VARIBLE BASED ON FACTORS ENTIRELY BEYOND THE CONTRACT AGREEMENT WAS A INDETERMINATE SENTENCE IN VIOLATION OF **OCGA § 17-10-1(A)(1)**, THE JUDGEMENT WAS VACATED WITH REGARD TO SENTENCE AND THE CASE REMANDED FOR RESENTENCING. SEE ALSO **KAISER V. STATE**, 285 GA APP. 63 (2007). (WHERE THIS COURT HELD THAT KAISER'S SENTENCE VIOLATED **OCGA § 17-10-1(A)(1)** REQUIRING COURT TO PRESCRIBE A DETERMINATE SENTENCE. "A SENTENCE ENTERED IN A CRIMINAL CASE WHICH IS UNAUTHORIZED BY LAW IS NULLITY AND VOID." **KAISER V. STATE**, (ID).

3.

THE COURT ERRED IN DENYING RELIEF IN THE MANNER OF OVERLOOKING THE RECORD EVIDENT FACT THAT APPELLANT'S 5 YEAR SENTENCE FOR COUNT 6, POSSESSION OF A FIREARM BY A CONVICTED FELON UNDER OCGA § 16-11-131 IS -

VOID AND IN-VIOLATION OF THE FIFTH AMENDMENT TO THE UNINTED STATES CONSTITUTION, GEORGIA CONSTITUTIONAL PROVISIONS AND PROCEEDURAL PROTECTION AFFORDED BY THE GEORGIA DOUBLE JEOPARDY PROVISIONS FOUND IN OCGA §§§ 16-1-6, 16-1-7 AND 16-1-8 ——— WHEREAS APPELLANT WAS CONVICTED TWICE FOR POSSESSION OF A FIREARM BY A CONVICTED FELON UNDER **OCGA § 16-11-131** BY DIFFIRENT PROSECUTIONS BASED UPON THE SAME MATERIAL FACTS. FURTHERMORE SENTENCED AS A RECIDIVIST BY THE USE OF THE SAME FACTS.

IT IS A UNDISPUTED FACT THAT APPELLANT IS PRESENTLY SERVING A 5 YEAR CONSECUTIVE SENTENCE FOR COUNT 6, POSSESSION OF A FIREARM BY A CONVICTED FELON, **OCGA § 16-11-131**. THE LAW IS: "PROOF OF PRIOR FELONY CONVICTION IS A NECESSARY ELEMENT OF THE STATE'S PROOF UNDER **OCGA § 16-11-131**." **PRATHER V. STATE**, 247 GA, 789, 279 S.E. 2d 697 (1981); **BRANTLY V. STATE**, 272 GA 892, 536 SE 2d 509 (2000). . . . IN RELEVANT REGARD, COUNT 6 POSSESSION OF A FIREARM BY A CONVICTED FELON, OFFENSE TO WHICH THE APPELLANT WAS -

CONVICTED AVERS AS A ESSENTIAL ELEMENT ON FOR COUNT 6, A PRIOR CONVICTION ALLEGING APPELLANT HAVING BEEN CONVICTED OF A FELONY ON INDICTMENT NUMBER # A51149, SUPERIOR COURT OF FULTON COUNTY, CHARGE OF ROBBERY ON SEPTEMBER 26, 1980. ALSO IN RELEVANT REGARD PRIOR TO APPELLANT'S OCTOBER 15, 2007 CONVICTION FOR COUNT 6, POSSESSION OF A FIREARM OFFENSE, APPELLANT WAS CONVICTED BY THE SAME COURT OF FULTON COUNTY WHEREAT HE ENTERED A NOLO CONTENDERE PLEA TO THE SAME CHARGE OF POSSESSION OF A FIREARM BY A CONVICTED FELON OCGA § 16-11-131 ON MAY 07, 2004 AND ON INDICTMENT # 04SC126-34 WHICH WAS FILED IN THE CLERK'S OFFICE ON JANUARY 4, 2004 WHILE REPRESENTED BY THE SAME COUNSEL. APPELLANT WAS SENTENCED TO ONE YEAR COMMUTTED TO TIME SERVED. THUS IN SUBSTANTIVE REGARD, THE SAME ESSENTIAL PRIOR CONVICTION ELEMENT, INDICTMENT # A51149 THAT WAS NECESSARY TO CONVICT APPELLANT ON THE POSSESSION OF A FIREARM OFFENSE THAT RESULTED IN THE 5 YEAR SENTENCE THAT HE IS NOW SERVING WAS ALSO USED TO CONVICT HIM FOR THE POSSESSION OF A FIREARM BY A CONVICTED -

FELON TO WHICH HE ENTERED THE NOLO CONTENDERE PLEA. IN OTHER WORDS, THE VERY SAME MATERIAL EVIDENCE INDICTMENT #A51149 WAS USED TO CONVICT APPELLANT TWICE FOR POSSESSION OF A FIREARM BY A CONVICTED FELON UNDER THE SAME STATUTE VIA TWO DIFFERENT [redacted] PROSECUTIONS. IN FURTHER SUBSTANTIVE REGARD, THAT VERY SAME NOLO CONTENDERE PLEA THAT AVERS THE UNLAWFULLY USED PRIOR CONVICTION ELEMENT USED TO CONVICT APPELLANT TWICE FOR THE SAME OFFENSE IS AVERED ON THE FACE OF INDICTMENT #07SC60835 AS A ESSENTIAL ELEMENT OF COUNT 7, POSSESSION OF A FIREARM BY A CONVICTED FELON, **OCGA § 16-11-133**, A RECIDIVIST COUNT OF THE INDICTMENT THUS CONTRARY TO LAW, BECAUSE IT IS WELL ESTABLISHED BY LAW THAT PRIOR NOLO CONTENDERE PLEA CAN NOT BE USED AS PROOF OF A PRIOR FELONY CONVICTION IN A PROSECUTION FOR POSSESSION OF A FIREARM BY A CONVICTED FELON. **BLACKMON V. STATE**, 266 GA. APP. 877 598 S.E. 2d 542 (2004); **GA CODE ANN § 16-11-131 (B)** IN FURTHER SUBSTANTIVE REGARD,

THE RECORD SHOWS THE VERY SAME NOLO CONTENDERE PLEA, INDICTMENT #**04SC12634** THAT IS AVERED ON THE FACE OF INDICTMENT #**07SC60835** AS A ESSENTIAL ELEMENT OF COUNT 7 AND THAT AVERS THE EXCESSIVELY USED PRIOR CONVICTION ELEMENT TO CONVICT APPELLANT TWICE FOR POSSESSION OF A FIREARM, WAS ALSO ENTERED AS EVIDENCE FOR AGGRAVATION OF SENTENCES AS STATE'S **EXHIBIT 1. CT. PGS 12-13)**. THUS PUTTING THE APPELLANT IN **JEOPARDY** 4 TIMES VIA THE SAME MATERIAL FACTS AND OR EVIDENCE. A PROSECUTION IS BARED IF THE ACCUSSED WAS FORMALLY PROSECUTED FOR THE SAME CRIME BASED UPON THE SAME MATERIAL FACTS IF SUCH PROSECUTION RESULTED IN EITHER A CONVICTION OR AN AQUITAL. **OCGA § 16-1-8 (A)(1)**. THE **FIFTH AMENDMENT TO THE UNINTED STATES CONSTITUTION** AND GEORGIA CONSTITUTION PROHIBIT THE GOVERNMENT FROM PLACING DEFENDANT IN JEOPARDY TWICE FOR THE SAME OFFENSE ONCE HE HAS BEEN CONVICTED OR AQUITTED AND ALSO PROHIBIT MULTIBLE PUNISHMENT FOR THE SAME OFFENSE. **GA. CONST. OF 1983 ARTICLE I, SEC I, PAR. XVII**; **GARETT V. STATE**, 306 GA APP. 429 430 (2010).

GEORGIA BY STATUTE EXTENDED THE PROHIBITION OF DOUBLE JEOPARDY BEYOND THOSE SUBSTANTIVE CONSTITUTIONAL LIMITS BY PLACING PROCEEDURAL BARS ON MULTIBLE PROSECUTIONS ARRISING OUT OF THE SAME CONDUCT. OCGA §§§ 16-1-6, 16-1-7, 16-1-8. HERRINGTON V. STATE, 315 GA. APP. 101, 726 SE 2d 627 (2012); STONE V. STATE, 166 GA. APP. 245 (1) 305 SE 2d 94 (1983). THUS THE TRIAL COURT IMPOSED PUNISHMENT THE LAW DOES NOT ALLOW AND ERRED IN DENYING APPELLANT RELIEF FROM VOID SENTENCE.

4.

THE COURT ERRED IN DENYING APPELLANT RELIEF IN THE MANNER OF DISREGARDING THE OBVIOUS FACT AND ISSUE RAISED THAT APPELLANT'S SENTENCES ARE VOID AND ILLEGAL WHEREAS IN VIOLATION OF OC.GA § 17-10-1(A), OCGA §§ 17-16-4(5) AND 17-10-7(C) THE COURT IMPROPERLY SENTENCED APPELLANT AS A RECIDIVIST PURSAUNT TO AN INAPPLICABLE RECIDIVIST STATUTE BY THE USE OF 3 INADMISSABLE PRIOR CONVICTIONS AND WITHOUT AFFORDING APPELLANT STATUTORILY REQUIRED PRIOR NOTICE.

[PLEASE REFER TO INTIAL BRIEF OF APPELLANT PART III ARGUMENT AND CITATION OF AUTHORITIES ENUMERATION 5 AND 6 PAGES 27-30 FOR FURTHER SUPPORT OF CLAIM]

5.

THE COURT ERRED IN DENYING APPELLANT RELIEF IN THE MANNER OF DISREGARDING THE VERY OBVIOUS RECORD EVIDENT FACT AND ISSUE RAISED THAT APPELLANT'S SENTENCES ARE VOID AND ILLEGAL WHEREAS THE TRIAL COURT CAUSED THE PLEA AND SENTENCES TO BE SO UNCONSTITUTIONALLY VAGUE AND AMBIGUOUS THAT A PERSON OF NORMAL INTELLIGENCE MUST GUESS AS TO MEANING AND DIFFERENCE AS TO ITS APPLICATION AND SUCH THAT APPELLANT WAS NOT FULLY AWARE OF THE CONSEQUENCES OF THE PLEA. ——— "SENTENCES FOR CRIMINAL OFFENCES SHOULD BE CERTAIN, DEFINITE AND FREE FROM AMBIGUITY AND WHERE THE CONTRARY IS THE CASE, THE BENIFIT OF THE DOUBT SHOULD BE GIVEN TO THE ACCUSED." **MERNEIGH V. STATE**, 271 GA. 883, 522 SE 2d 362 (2000); **ARRINGTON V. STATE**, 234 GAAPP. 187 505 S.E.2d 851 (1998).

IN OTHER WORDS HE MUST BE GIVEN THE CONSTRUCTION WHICH FAVORS THE LIBERTY OF THE INDIVIDUAL. **SHULTZ V. UNINTED STATES**, 384 F2d 374 (5TH AND 11TH CIR. (1965). [PLEASE REFER TO INITIAL BRIEF OF APPELLANT PART I, PROCEEDINGS BELOW AND RELEVANT FACTS PGS. 1-5 AND PART III ARGUMENT AND CITATION OF AUTHORITIES, ENUMERATION 9, PAGES 36-39 FOR FURTHER SUPPORT OF CLAIM.].

CONCLUSION

WHEREFORE FOR ALL THE FAIR AND JUST REASONS FOR RELIEF SET FORTH IN APPELLANT'S INITIAL BRIEF AND FAIR AND JUST REASONS CONTAINED IN SUPPLEMENTAL BRIEF, APPELLANT PRAYS THIS COURT WILL REVERSE JUDGEMENT OF LOWER COURT, VACATE VOID SENTENCES AND REMAND THE CASE WITH DIRECTION AND OR ANY OTHER REMEDY THIS COURT DEEMS APPROPRIATE AND JUST.

THIS THE 4TH DAY OF APRIL 2014

Herschel G. Byrd

PRO SE HERSCHEL G. BYRD GDC #328776

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).

PAUL HOWARD, DISTRICT ATTORNEY
FULTON COUNTY SUPERIOR COURT
136 PRYOR STREET SW 3RD FLOOR
ATLANTA, GEORGIA
30303

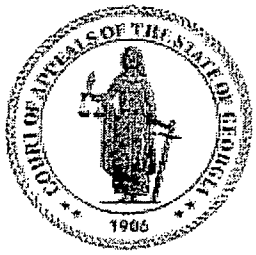
This the 4th day of April, 2014.

Signature Herschel G. Byrd

HERSCHEL G. BYRD GDC #328776
RIVERBEND CORRECTIONAL FACILITY
196 LAYING FARM ROAD S.E.
MILLEDGEVILLE GEORGIA
31061

NOTARY PUBLIC
G E Greene
MY COMMISSION EXPIRES
8-14-17

ELIZABETH GREENE
NOTARY PUBLIC
MY COMMISSION EXPIRES
WIN COUNTY, GEORGIA



2014

Georgia Court of Appeals

RULES

Last Update: February 19, 2014

HERSCHEL G. BYRD #328776
RIVERBEND CORRECTIONAL FACILITY
196 LAYING FARM RD S.E.
MILLEDGEVILLE, GA. 31061

APRIL 4, 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# A14A1027

DEAR RESPECTED CLERK:

PLEASE FIND AND FILE THE ENCLOSED **SUPPLEMENTAL TO BRIEF OF APPELLANT** WHICH CONSIST OF **15** PAGES INCLUDING CERTIFICATE OF SERVICE. THUS FURTHER FIND **1**. COPY OF ORIGINAL BRIEF AND 2 COPIES OF SUPPLIMENTAL TO BRIEF.

I SEND WITH THE BEST OF REGARDS.

RESPECTFULLY

Herschel G. Byrd

HERSCHEL G. BYRD 328776

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 9, 2014

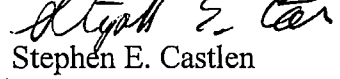
Mr. Michael Carr
GDC300499 F1-111-B
Calhoun State Prison
Post Office Box 249
Morgan, Georgia 39866

RE: A13A1801. Michael Carr v. The State

Dear Mr. Carr:

In response to your "Motion to file Out-of-Time Appeal" addressed to Ms. Holly Sparrow (who retired in 2013), this Court does not have the authority to investigate or advocate on behalf of any individual. I am returning your document to you.

Sincerely,



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

SEC/ld
Enclosure

4 · 2 · 14

Court of Appeals
of
State of Georgia
A13A1801.
MICHAEL CARR V. THE STATE

Re: Motion to file Out-of-time Appeal.

Ms. Sparrow (clerk),

Your letter to me dated June 13, 2013 in which you denied my Appeals on account of Late filing, you subsequently advised me to file an Out-of-time Appeal. Ingram v. State 300 Ga. App. 834, 835(1) (686 SE 2d 440)(2009).

I have long filed this Appeal and waited a long time before they Called me up to the fulton County Superior Court in December, 2013.

I was kept at the County jail for 3 months and in february of this year sent back to Calhoun prison without seeing the judge.

I will like for you to instruct the Court to attend to this Out-of-time Appeal as soon as possible.

Sworn on this 2 day of April yours Sincerely,
April 2014.

Michael Carr

ALPHONZO D. BARRE
NOTARY PUBLIC
EXPIRES
GEORGIA
JUNE 1, 2016
DOUGHERTY COUNTY

Alphonzo D. Barre
4-2-14

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 9, 2014

Ms. Amanda J. Cosgrove
GDC1000441300
Lee Arrendale State Prison
Post Office Box 709
Alto, Georgia 30510

RE: A14A1331. Amanda J. Cosgrove v. The State

Dear Ms. Cosgrove:

I am in receipt of your Appellant's Brief in the above appeal. Pursuant to Rule 1(a) of this Court, the clerk can receive no pleadings that do not show a Certificate of Service to opposing counsel.

The 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.

Sincerely,

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

SEC/ld

APRIL 4, 2014

AMANDA J. COSGROVE CASE NO.: A14A1331

V.

THE STATE

PLEASE FIND THE ENCLOSED INFORMATION REGARDING THE ABOVE CASE FORWARDED FOR YOUR REVIEW AND AWAITING ACTION AS APPROPRIATE.

PLEASE ALSO TAKE NOTE THAT, AMANDA J. COSGROVE, APPELLANT, NEVER REQUESTED, ADVISED, OR AUTHORIZED MR. J.E. JARVIS J.R. TO FILE A MOTION TO WITHDRAW APPEAL IN ANY MANNER. HIS STATING AS MUCH IN THE TIME EXTENTION MOTION TO THIS HONORABLE COURT IS A LIE AND AN EXAMPLE OF THE COMPLICATION(S) IN THE ORIGINAL CASE.

RESPECTFULLY,

Amanda Cosgrove

AMANDA COSGROVE
L.A.S.P. #1000441300
PO BOX 709
ALTO, GA 30510

CC: J.E. JARVIS J.R, ASSISTANT PUBLIC DEFENDER

AMANDA J. COSGROVE CASE NO.: A14A1331

V.

THE STATE

UPON REVIEW OF TRANSCRIPT(S) OF GUILTY PLEA - NOV. 1, 2010 AND OF SENTENCE - DEC. 3, 2010, THE FOLLOWING DISPUTES, DISCREPENCIES, AND ERRORS WERE MADE EVIDENT. THUS THE FOLLOWING ARE BEING BROUGHT TO THIS HONORABL COURT.

1.

JUDGE JAMES E. HARDY ON NOV. 1, 2010 ADVISED AND SET OUT A TIME FRAME FOR SENTENCING. THAT FRAME WAS SET AT "UP TO 40 YEARS," 20 YEARS BEING THE MAXIMUM FOR EACH CHARGE. HOWEVER, DURING ACTUAL SENTENCING, THE HONORABLE JUDGE JAMES E. HARDY EXCEEDED THIS LIMIT BY SENTENCING A TERM OF 50 YEARS

WITH DUE RESPECT, THIS FACT ALONE CAUSES THE ENTIRE SENTENCE TO BE VOID ACCORDING TO RULE 60: RELIEF FROM JUDGEMENT. THE LENGTH WHICH WAS SENTENCED WAS GREATER THEN THE SET TIME FRAME GIVEN.

2.

FURTHER MORE, JUDGE JAMES E. HARDY'S COMMENTS DURING HIS SETTING OF IMPRISONMENT TERM WERE

COMMENTS DURING HIS SETTING OF IMPRISONMENT TERM WERE COERCIN. BY STATING AT LEAST TWICE DURING THE GUILTY PLEA SUCH PHRASE(S) AS: "YOU'LL SERVE EVERYDAY OF TEN YEARS, TEN TO 20" AND "YOU KNOW YOU'RE LOOKING AT A MINIMUM OF TEN YEARS TO SERVE, AND YOU'LL SERVE EVERY DAY OF THAT." BOTH COMMENTS WERE USED AS SCARE TACTICS FOR A PERSON WHO NOT ONLY HAD NO CRIMINAL HISTORY, IMPRESSIONA AND SUBSEPTABLE TO THE JUDGE AND COUNSEL'S WORDS, BU ALSO IGNORANT OF CRIMINAL LAW. JUDGE JAMES E. HARDY ALSO VIOLATES: 17-8-57 WITH THESE COMMENTS AS WELL AS, FUTHER COMMENTS REGUARDING THE CASE DURING SENTENCING.

3.

DURING THE GUILTY PLEA, THE DISTRICT ATTORNEY: MS. TRACY CHAPMAN, INCORRECTLY STATED ILLEDGED FACTS, AS WELL AS, MADE ASSUMPTION(S) ON THE CASE THAT SHE HAD NO AUTHORITY TO DO SO, AND PRESENTED THOSE ASSUMPTION(S) AS "FACTS"

MS. CHAPMAN STATED, "MS. COSGROVE DID ENTER WITH THE INTENT TO COMMIT THE CRIME OF KIDNAPPING THE DWELLING HOUSE OF JASON PERE AND LAURA MASON." WITH THIS STATEMENT, MS. CHAPMAN HAS TAKEN THE LAW INTO HER OWN HANDS REGUARDING BURGLARY. AS STATED IN THE POLICE REPORTS, FROM MS. COSGROVE, AND FROM MR PERE, NOT ONLY WAS MS. COSGROVE INVITED INTO THE DWELLING BY MR PERE, IT WAS ALSO

COERCIN. BY STATING AT LEAST TWICE DURING THE GUILT PLEA SUCH PHRASE(S) AS: "YOU'LL SERVE EVERYDAY OF TEN YEARS, TEN TO 20" AND "YOU KNOW YOU'RE LOOKING AT A MINIMUM OF TEN YEARS TO SERVE, AND YOU'LL SERVE EVERY DAY OF THAT." BOTH COMMENTS WERE USED AS SCARE TACTICS FOR A PERSON WHO NOT ONLY HAD NO CRIMINAL HISTORY, IMPRESSIONABLE AND SUBSERTABLE TO THE JUDGE AND COUNCEL WORDS, BUT ALSO TO A PERSON WHO WAS EXTREMLLY IGNORANT OF CRIMINAL LAW. JUDGE JAMES E. HARDY ALSO VIOLATES: 17-8-57 WITH THESE COMMENTS, AS WELL AS, FURTHER COMMENTS REGUARDING THE CASE MADE DURING SENTENCING.

3.

DURING THE GUILTY PLEA, THE DISTRICT ATTORNEY: MS. TRACY CHAPMAN, INCORRECTLY STATED ILLEDGED FACTS, AS WELL AS, MADE ASSUMPTION(S) ON THE CASE THAT SHE HAD NO AUTHORITY TO DO SO, AND PRESENTED THOSE ASSUMPTION(S) AS FACTS.

MS. CHAPMAN STATED, "MS. COSGROVE DID ENTER WITH THE INTENT TO COMMIT THE CRIME OF KIDNAPPING THE DWELLING HOUSE OF JASON PERE AND LAURA MASON." WITH THIS STATEMENT, MS. CHAPMAN HAS TAKEN THE LAW INTO HER OWN HANDS. AS STATED IN THE POLICE REPORTS, BY MS. COSGROVE, AND BY MR. PERE, MS. COSGROVE HAD PERMISSION TO ENTER THE DWELLING, ALSO MR. PERE WAS THE ONE TO INVITE MS. COSGROVE IN, AS WELL AS, UNLOCK AND OPEN THE DOOR.

SINCE PERMISSION WAS GIVEN, TO PROVE BURGLARY, ONLY A JURY HAS THE AUTHORITY TO DECIDE A PERSON'S INTEN - GARY V. STATE, 163 GA. APP. 720, 294 SE 2d 697 19 MAKING MS. CHAPMAN'S CONVICTION(S) AND CHARGE(S) VOID.

MS. CHAPMAN ALSO STATED, "ALSO IN COUNT #3, TH FACTS WILL SHOW THAT MS. COSGROVE DID ON THE 2ND DA OF JUNE, 2008, THEN AND THERE ABDUCT AND STEAL AWAY JASON PERE WITHOUT LAWFUL AUTHORITY AND HOLD MR. PERE AGAINST HIS WILL." THIS IS FALSE. THE FACTS ARE THAT MS. COSGROVE WAS BOUND AND GAGGED WITH MR PERE AND MS. MASON, THAT MS. COSGROVE NEVER MADE ANY DEMANDS UPON ANYONE, MS. COSGROVE DID NOT ABDUCT AND STEAL AWAY OR HOLD ANYONE AGAINST THEIR WILL, MS. COSGROVE NEVER HELD ANY WEAPON. FUTHERMORE, IT WAS NOT MR. PERE WHO WAS "ABDUCT AND STEAL AWAY," IT WAS INFACT MS. LAURA MASON.

WITH DUE RESPECT TO ALL COURTS AND HONORABLE JUDGES, THIS ONLY BEING COMPILED AND SUBMITTED WITH REQUESTS AND PRAYERS OF SWIFT JUSTICE AND CORRECTION.

RESPECTFULLY,

Amanda Cosgrove

AMANDA COSGROVE

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 9, 2014

Mr. Markeith Brown
Chatham County Sheriff's Complex
1074 Carl Griffin Drive
Savannah, Georgia 31405

Dear Mr. Brown:

When you file the Discretionary Application, you will need to follow the procedures set out in OCGA §5-6-35 and the rules of this Court. Specifically, the application must contain a stamped filed copy of the order you are appealing and so much of the record as you think the Court needs to review in order to reach the determination the trial court committed reversible error.

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

Sincerely,

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

SEC/ld
Enclosure

April 3, 2014

Dear Whomever it may concern:

My name is Markeith Brown. I am writing this letter to inform the Court of Appeals that I wish to submit an application for discretionary appeal of the Chatham County Superior Court's order revoking my probation in full under case no. CR03-0832-KA on 3/25/14. Attorney Jason Jones, the counsel appointed to represent me for the case, has failed to respond to any of my several attempts to contact him regarding the appeal. I've notified the Clerk of Superior Court about it and I'm preparing to file a complaint about it with the State Bar of Georgia also. Mr. Jones refused to perform certain duties that I requested of him to assist me at the probation revocation hearing and now he is refusing to file my appeal. After I was sentenced at the hearing and officers were escorting me out of the courtroom, Mr. Jones informed me that I had (10) days to file an appeal. I assumed that he meant (10) working days. I do not know how to file appeals and I am incarcerated at the Chatham County Sheriff's Dept. with very limited resources. So I am forced to have to write this letter so that the Court of Appeals can be notified about the grounds that I wish to raise on my appeal.

The Superior Court, Chatham County abused it's discretion in the above referenced case by even accepting my guilty plea without first informing me that I'd have to register as a sex offender for the rest of my life if I pled guilty and

Subsequently lost my First Offender treatment. This abuse of discretion constitutes a reversible error and a violation of the Uniform Superior Court Rules. I would never have pled guilty had I known that I'd be subject to such severe ramifications. The record will show this abuse of discretion.

Second, the sentencing form that the Court used failed to specify that a possible consequence of violating a special condition was revocation of my entire probation. The Court never warned me of the consequences in the sentence. Neither was I warned in writing. The record will reflect this also.

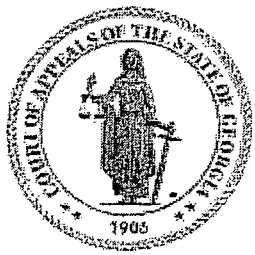
In 2006, legislature amended the aggravated child molestation statute to provide misdemeanor punishment to an offender who is under the age of eighteen and no more than (4)yrs. older than the minor who is at least thirteen years of age. In light of this amendment, my sentence constitutes cruel and unusual punishment under both the Georgia and United States' Constitutions because I am (3)yrs. older than the minor female in my case, and I was seventeen years of age when I was convicted of less serious offenses than aggravated child molestation.

Last, the Court revoked my probation in full and sentenced me to an extra year to serve that I didn't have on my sentence. I have (4)yrs. left on my sentence and the judge sentenced me to serve five years. The record will show this. I explained to attorney Jason Jones that I never entered my plea with an understanding of the consequences of the plea — including the sex offender registry. Mr. Jones told me that that is a postconviction matter that he couldn't help me with and I believed him.

Please accept this letter as an application to be permitted to appeal.

Sincerely,

Marbeith Bro



2014

Georgia Court of Appeals

RULES

Last Update: February 19, 2014

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 9, 2014

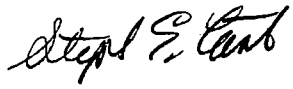
Mr. Harry Lee Boggs, Jr.
GDC1000672581
Hays State Prison
Post Office Box 668
Trion, Georgia 30753

Dear Mr. Boggs:

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

A Petition for Writ of Certiorari is to the Supreme Court of Georgia. I am returning your documents to you.

Sincerely,



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

SEC/ld
Enclosures

IN THE GEORGIA STATE COURT OF APPEALS
for THE GOOD
STATE OF GEORGIA

BOGGS, HARRY, LEE, JR
PETITIONER

V.S.

STATE OF GEORGIA
RESPONDENTS

CRIMINAL CASE NUMBER
767778 AND 12CR6784

FIRST DEGREE FORGERY

PETITION for WRIT of
CERTIORARI

I BOGGS, HARRY, LEE, JR HEREBY FILE'S
A PETITION for A WRIT of CERTIORARI
TO THE STATE of GEORGIA APPEALS
COURT for THE STATE of GEORGIA. . . .
IN THE ABOVE STYLE CASE NUMBER'S. . .

SHE REFUSED TO NOTARY X
NOTARY PUBLIC

SWORN THIS 1st DAY of APRIL
2014 AT HAYS STATE PRISON
IN TIFTON GA 30753

X
BOGGS, HARRY, LEE, JR
HAYS STATE PRISON
P.O. BOX 1668
UNDERWOOD DRIVE
TIFTON G.A. 30753
ID# 1000672581

IN THE GEORGIA COURT OF APPEALS
for the State of
GEORGIA

BOGGS, HARTY, LEE, JT
DEFENDANT

V.S.

State of GEORGIA

A WRIT OF CERTIORARI
ON CASE# 767778 &
12CR6784

A WRIT OF CERTIORARI

A WRIT OF CERTIORARI IS THE METHOD BY WHICH AN APPELLATE COURT EXERCISES IT'S DISCRETIONARY POWER TO HEAR AN APPEAL. THE WRITE ORDERS THE LOWER COURT TO SEND UP A CERTIFIED COPY OF THE RECORD SO THAT THE HIGHER COURT CAN DETERMINE WHETHER ANY ERRORS OF LAW OCCURRED IN THE PROCEEDINGS BELOW..

SEE ATTACHED ERRORS
THAT BIBB COUNTY COURT
SYSTEM HAS MADE. . . .

SBE REFUSED X
NOTARY PUBLIC

SWORN THIS 1st DAY OF APRIL
2014 AT Hays State Prison

X
BOGGS, HARTY, LEE, JT
Hays State Prison
1000672581

The Court of Appeals
Office of the Clerk
47 Trinity Avenue
Suite 501
Atlanta, Georgia 30334

HOLLY K. O. SPARROW
CLERK/COURT ADMINISTRATOR

(404) 656-3450
sparrowh@gaappeals.us

April 10, 2013

Department of Corrections
Investigations Department
2 Martin Luther King, Jr. Drive
Atlanta, Georgia 30334

RE: Daniel Eric Cobble, GDC758572
Baldwin State Prison

Dear Sir or Madam:

I am alerting you to threatening language made by Mr. Daniel Eric Cobble an inmate at the Baldwin State Prison concerning me as the Clerk of the Court of Appeals of Georgia. I am enclosing a copy of Mr. Cobble's letter received in this office on April 8, 2013. See the language in items 1 and 4, particularly "You fix or you die! I have right to kill people that f---- with my life." I want you to be aware of my concern for my own safety and the judges and other employees of this Court.

Mr. Cobble filed a Discretionary Application which was denied in this Court. Mr. Cobble has filed a Motion for Reconsideration and a Notice of Intent that he intends to file a Petition for Writ of Certiorari to the Supreme Court of Georgia.

Sincerely,

Holly K.O. Sparrow
Clerk/Court Administrator
Court of Appeals of Georgia

HKOS/ld
Enclosure

To clerk of Georgia [redacted] court of Appeals

From prose petitioner Daniel Eric Cobb
758572 Baldwin state prison

(1) hey you stupid bitch, do you want to Keep playing with my life? because enclosed your court gave me 15 days to Appeal, (not 10 you Geshafed

(2) I've already told you the fulton superior courts inactions prevented me abiding by your courts 15 day now 10 order, by their court never sending me a stamped order in the first place, they only sent me a unstamped order, so I can't abide by your courts order when other court will not

(3) enclosed was 3 different motions, one was a notice of Appeal to appeal your courts 15 day now 10 day court order, & one was a Reconsideration to appeal your courts 15 day now 10 day court order, & one was a notice of superior courts tampering.

however the Reconsideration and notice of intent was supposed to be filed after the 10 day order you refer to expired, you know that, so quit playing games

(4) prison illegally prevented me abiding by your 10 day order by their not sending out any inmates indigent mail except one day a week only, so if I'm late its not my fault. you fix or you die!

I have right to kill people that fuck with my life see state law O.C.G.A 16-3-21 and my 2nd amendment guns

(5) I told you prison's illegally preventing me appealing your court by their stealing all my legal papers. you fix

The Court of Appeals
Office of the Clerk
47 Trinity Avenue
Suite 501
Atlanta, Georgia 30334

HOLLY K. O. SPARROW
CLERK/COURT ADMINISTRATOR

(404) 656-3450
sparrowh@gaappeals.us

April 10, 2013

Mr. Daniel Eric Cobble
GDC758572
Baldwin State Prison
Post Office Box 218
Hardwick, Georgia 31034

Dear Mr. Cobble:

I am in receipt of your communication of postmark date April 8, 2013. Please be advised that your Notice of Intent sent with your previous mailing was docketed on April 4, 2013 and the Motion for Reconsideration was docketed on April 8, 2013.

Sincerely,

Holly K.O. Sparrow
Clerk/Court Administrator
Court of Appeals of Georgia

HKOS/ld

To clerk of Georgia [redacted] court of Appeals

From prose petitioner Daniel Eric Cobb
758572 Baldwin state prison

(1) hey you stupid bitch, do you want to keep playing with my life? because enclosed your court gave me 15 days to appeal, (not 10 you dirty fucks)

(2) I've already told you the fucken superior court's inactions prevented me abiding by your courts 15 day now 10 order, by their court never sending me a stamped order in the first place, they only sent me a unstamped order, so I can't abide by your courts order when other court will not

(3) enclosed was 3 different motions, one was a notice of appeal to appeal your courts 15 day now 10 day court order, & one was a Reconsideration to appeal your courts 15 day now 10 day court order, & one was a notice of superior courts tampering.

however the Reconsideration and notice of intent was supposed to be filed after the 10 day order you refer to expired, you know that, so quit playing games

(4) prison illegally prevented me abiding by your 10 day order by their not sending out any inmates indigent mail except one day a week only, so if I'm late its not my fault. you fix or you die!

I have right to kill people that fuck with my life see state law O.C.G.A. 16-3-21 and my 2nd amendment guns

(5) I told you prison's illegally preventing me appealing your court by them stealing all my legal papers. you fix

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 10, 2014

Mr. Michael P. Bradley
GDC939047 B-2
Telfair State Prison
Post Office Box 549
Helena, Georgia 31037

RE: A14A1136. Michael Paul Bradley v. The State

Dear Mr. Bradley:

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 and the Court of Appeals of Georgia is not subject to the Open Records Act.

The Affidavit contains 30 pages which totals $45.00 for a complete copy. Please send your check or money order to the letterhead address specifying the copy be sent to you. Your request will be processed and sent to you by return mail.

Sincerely,

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

SEC/ld

Date: 4/4/2014

Michael Paul Bradley
ET #381082 GDC #9390247
Telfair State Prison
P.O. Box 549
Helena, Ga. 31037

Office of the Clerk
Court of Appeals of Georgia
Suite 501
47 Trinity Avenue
Atlanta, Ga. 30334

RE: *Case No. A14A1136, Direct Appeal From the Superior Court of Morgan County, Case No. 1996CC168;
*'Submitted Documents' Filed by 'AFFIDAVIT'...

Clerk of Court,

I am writing this letter in concerns of Appeal Case No. A14A1136, and the 'Submitted Documents' that were Filed by 'AFFIDAVIT' dated, March 11, 2014.

My Concerns are the 'Submitted Documents' that were sent for the Process of Appeal in accords to My Case.

I am wondering if these Documents could be returned to Me, for they are needed in accords to the actual "MOTION" that was Filed, and in concerns of My Case upon Court Litigation.

I thank-you for your time and concerns to this issue.

Respectfully Written,

Michael P. Bradley

Pro Se

PATRICIA ANN WILCOX
NOTARY PUBLIC
EXPIRES
GEORGIA
MAY 13, 2016
TELFAIR COUNTY

This 4th day of April, 2014.

C.C.:

*Personal File...

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 11, 2014

Gaslowitz Frankel, LLC
ATTN: Ms. Laura L. Self
Legal Assistant
4500 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, Georgia 30308

Dear Ms. Self:

Pursuant to your email request, we are destroying the Hearing Transcript you sent to our office in the case of Soon Ja Kwon v. David Kwon. As we informed you previously, we only accept records and transcripts from the lower court clerks.

Sincerely,

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

SEC/ld
Enclosures

IN THE SUPERIOR COURT OF DEKALB
STATE OF GEORGIA

SOON JA KWON,

Plaintiff,

vs.

CIVIL ACTION FILE

NO. 12CV10846-6

DAVID KWON, individually, and as Administrator of THE ESTATE OF PHIL KWON, STEPHEN KWON and CHARLENE KWON,

Defendants.

HEARING

August 19, 2013

9:30 a.m.

DeKalb County Judicial Tower

Courtroom 7C

556 North McDonough Street

Decatur, Georgia

Marsi Koehl, CCR, CCR-B-2424

Patty Bender - Kwon Appeal

From: Laura Self <lself@gadisputes.com>
To: <benderp@gaappeals.us>
Date: 4/10/2014 2:05 PM
Subject: Kwon Appeal

Ms. Bender:

Good afternoon!

Per our conversation yesterday, please destroy the August 19, 2013 hearing transcript in Kwon v. Kwon, DeKalb County Superior Court, Civil Action File Number 12CV10846-6.

Thank you!
--
Laura L. Self
Legal Assistant

Gaslowitz Frankel LLC
Attorneys at Law
4500 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, Georgia 30308-3243
(404) 892-9797
(404) 892-1311 fax
lself@gadisputes.com
www.gaslowitzfrankel.com

Please return to:

Richard Still
Fusion Court Reporting
3575 Piedmont Road
Atlanta, GA 30305

per Mr. Still, Laura (from attorney firm listed below) requested that the court reporter submit this transcript to our Court as the trial court has not yet sent the record on appeal.

Gaslowitz Frankel, LLC
4500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 30308-3243

I have advised Laura that they are not permitted to have the transcript filed in this manner as everything must be filed thru the trial court clerk.

Also, please note that pursuant to COA rules, pages must be copied single sided.

Please copy Laura (address listed above) with a copy of the return letter.

Patty

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 11, 2014

Mr. Norman Davis
GDC1043303
Macon State Prison
Post Office Box 426
Oglethorpe, Georgia 31068

RE: A14A0927. Norman Davis v. The State

Dear Mr. Davis:

I am in receipt of your communication dated April 7, 2014. First, the clerk can not receive pleadings that do not show a Certificate of Service to opposing counsel. Secondly, according to our docket, you are represented by James Bonner and Michael Tarleton. This Court cannot receive pleadings filed by you. Any information you desire the Court to have concerning your case must be filed by your attorney (s) of record.

I am returning your document to you in case you want to discuss it with Mr. Bonner and Mr. Tarleton.

Sincerely,

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

SEC/ld
Enclosure

Norman Davis
1043303
Macon State Prison
P. O. Box 426
Oglethorpe Ga. 31068

To: Stephen E. Castlen, Clerk
Court of Appeals of Georgia
Suite 501
47 Trinity Avenue
Atlanta, Ga. 30334

Date: April 7th 2014

Re: Davis v. The State Appeal# A140927

Dear Mr Castlen,

This Honorable Court is without jurisdiction to review this appeal. The Trial court of Decatur County issued a order without out jurisdiction Dec 9. 2013 appointed Mr Tarleton. subsequent to the Macon County habeas court Nov 14. 2013 evidentiary hearing.
Mr Tarleton is not my lawyer and his appointment is void And this appeal is taken in lack of jurisdiction.
This case is properly pending in the Macon County Superior Court and the Supreme Court of Georgia is the proper appellate court for review. Therefore I request that you dismiss this appeal. Spiller v. State 282 Ga 351 (a) 647 SE 2d 64 (2007). Simmons v. State 276 Ga. 525. 526-27 579 SE2d 735 (2003).

Norman Davis

Norman Davis 1043303
Macon State Prison

C.C. Mr Tarleton G.P.D.S.C.
DA Decatur County Superior Court
Asst Att General Pitman Ga Dept of Law

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 14, 2014

Mr. Jonas J. Cooper
317 Indian Trail Road
Augusta, Georgia 30907

Dear Mr. Cooper:

It appears that you meant to mail the attached correspondence to the United States District Court for the Southern District of Georgia. It was sent to the Court of Appeals of Georgia, apparently, by mistake. We are returning your submission.

The mailing address for the United States District Court, Southern District follows:

United States District Court - Southern District
Mr. Scott L. Poff, Clerk
Post Office Box 8286
Savannah, Georgia 31412

Sincerely,

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

SEC/ld
Enclosures

IN THE CIVIL COURT OF RICHMOND COUNTY
STATE OF GEORGIA

JONAS JOSEPH COOPER.	)	Civil Action No. 161846
Appellant	)	**Notice of Appeal –A14A0616**
vs.	)	
	)	
HAROLD ROUNTREE.	)	
Appellee	)	

NOTICE OF APPEAL

Notice is given that JONAS JOSEPH COOPER. Appellant and Indigent in the above matter. hereby appeals to the United States District Court for the Southern District of Georgia Augusta Division from the order entered in this proceeding on the 30th day of September. 2013 and subsequent order of dismissal on the 26th day of March. 2014.

The clerk shall omit nothing from the record on appeal.

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

A Brief and Enumeration of Errors shall be filed for inclusion in the record on appeal.

NOTICE TO AGENT IS NOTICE TO PRINCIPAL.

NOTICE TO PRINCIPAL IS NOTICE TO AGENT.

Dated this 9th day of April, 2014.

Jonas Joseph Cooper
JONAS JOSEPH COOPER. Appellant

COURT OF APPEALS OF GEORGIA

JONAS JOSEPH COOPER,	)	Civil Action No. _____
Appellant	)	**Notice of Appeal –A14A0616**
vs.	)	
	)	
HAROLD ROUNTREE,	)	
Appellee	)	

CERTIFICATE OF SERVICE

I, JONAS JOSEPH COOPER, Appellant and Indigent in the above matter, hereby certify that I have this day served this **NOTICE OF APPEAL** by United States Postal Service certified mail with return receipt requested, with adequate postage affixed thereon, to ensure delivery to:

Court of Appeals of Georgia
7 Trinity Ave SW
Atlanta, GA 30334

NOTICE TO AGENT IS NOTICE TO PRINCIPAL.

NOTICE TO PRINCIPAL IS NOTICE TO AGENT.

USPS Certified Mail # _____

Dated this 9th day of April, 2014.

:jonas-joseph:Cooper
All Rights Reserved
JONAS JOSEPH COOPER, Appellant

COURT OF APPEALS OF GEORGIA

JONAS JOSEPH COOPER,	)	Civil Action No. _____
Appellant	)	**Notice of Appeal –A14A0616**
vs.	)	
	)	
HAROLD ROUNTREE,	)	
Appellee	)	
	)	

PAUPER'S AFFIDAVIT

Comes now, I, JONAS JOSEPH COOPER, first being duly sworn, deposes and states clearly for the record, I am financially unable to pay the filing fee required for filing costs in the Court of Appeals of Georgia and/or the United States District Court for the Southern District of Georgia *Augusta Division*, and I request I be permitted to file without having to pay filing fees. I am **unemployed** and without a job to provide adequate income.

Every penny **donated** to me is needed to provide adequate care for my **multiple** children including my **less than 1 year old baby girl**. Please consider the well-being of the children first.

Jonas-Joseph: Cooper

JONAS JOSEPH COOPER, Appellant

NOTARY ACKNOWLEDGEMENT

Sworn to and subscribed before me this 9 day of April, 2014.

Kayla S. Brown Notary Public

SEAL

Kayla S Brown
NOTARY PUBLIC
Richmond County, GEORGIA
My Comm. Expires
07/16/2016

COURT OF APPEALS OF GEORGIA

JONAS JOSEPH COOPER,	)	Civil Action No. _____
Appellant	)	**Notice of Appeal –A14A0616**
vs.	)	
	)	
HAROLD ROUNTREE,	)	
Appellee	)	
	)	

CERTIFICATE OF SERVICE

I, JONAS JOSEPH COOPER, Appellant and Indigent in the above matter, hereby certify that I have this day served this **PAUPER'S AFFIDAVIT** by United States Postal Service certified mail with return receipt requested, with adequate postage affixed thereon, to ensure delivery to:

Court of Appeals of Georgia
7 Trinity Ave SW
Atlanta, GA 30334

NOTICE TO AGENT IS NOTICE TO PRINCIPAL.

NOTICE TO PRINCIPAL IS NOTICE TO AGENT.

USPS Certified Mail # _____

Dated this 9th day of April, 2014.

jonas-joseph cooper
JONAS JOSEPH COOPER, Appellant

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 15, 2014

Mr. John O. Ellis
GDC1176320 F-1-203B
Dooly State Prison
Post Office Box 750
Unadilla, Georgia 31091

RE: A13A0381. John O. Ellis v. The State (03R1243)

Dear Mr. Ellis:

The above referenced appeal was disposed by opinion on May 6, 2013. The Court of Appeals affirmed the decision of the trial court. The remittitur issued on May 22, 2013, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

Sincerely,

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

SEC/ld

John O. Ellis
Dooly State Prison F-1-203B
P.O. Box 750
Unadilla, GA 31091

RE: STATUS of APPEAL (CASE# D3R 1243) A13A0381

Clerk of Court,

On about 12 Feb 2014 Motion was dismissed to Withdraw guilty plea due to Ineffective assistance of counsel filed on Jan 8, 2014. Responded with a Notice of Appeal on or about Feb 24, 2014. Please check status of APPEAL. Received paperwork stamp filed by clerk Feb 26, 2014. The court of Appeal of Georgia has jurisdiction of this Appeal. Requesting status And checking follow up of clerk. Was Appeal sent to Court. Please follow up And inform Plantiff

SENT:

John O. Ellis

John O. Ellis

April 11, 2014

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

April 14, 2014

To: Mr. Darcy Dale Fuller, GDC623711, Georgia State Prison, 300 First Avenue, South, Reidsville, Georgia 30453

Docket Number: **Style:** **Darcy Fuller v. Julia Slater, 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

Court Copy

GEORGIA COURT OF APPEAL
STATE OF GEORGIA

DARCY FULLER Plaintiff/ Appellate	)	
Vs.	)	CRIMINAL/CIVIL ACTION FILE NO:
JULIA SLATER BOBBY RUSSELL	)	
Defendants/ Appellee	)	

Application for discretionary Appeal being filed pursuant to O.C.G.A. 5-6-35, 42-12-8

COMES NOW the above-named Appellate and respectfully presents to the Honorable Court as follows:--

STATEMENT OF FACTS

on January 1, 2011 the appellate was charge with "Simple Battery and Aggr. Assault" the appellate had a preliminary hearing on those charges on February 2, 2011 at "2:00 pm" Also on January 3, 2011 the appellate was charge with "Aggr. Assault and Burglary" and the appellate had a preliminary hearing on those charges on February 2, 2011 at "8:00 am" - see copy of Indictment table as Exhibit-C1 which shows the charges appellate was indicted on. The appellate filed a Georgia Open Record Request on August 6, 2013 asking the appellees to send him a copy of his entire criminal case filed criminal case # SU-11-CR-359. on or Around

Exhibit - X

GEORGIA OPEN RECORDS ACT REQUEST FOR CRIMINAL CASE FILE

TO: OPEN RECORDS OFFICER
OFFICE OF THE DISTRICT ATTORNEY
Julia Slater
District Attorney's Office
P.O. Box 1340
Columbus, GA. 31901

FROM: Darcy D. Fuller GDC# 623711
GEORGIA STATE PRISON
300 1ST AVENUE, SOUTH
REIDSVILLE, GEORGIA 30453

DATE: 8 / 6 / 13

RE: STATE OF GEORGIA

v. CASE NUMBER: SU-11-CR-359

Darcy D. Fuller

Darcy D. Fuller, (Hereinafter "Defendant") defendant in the above-referenced case (Hereinafter "case"), request pursuant to OCGA section 50-18-70 et. seq. of the Georgia Open Records Act (Hereinafter "ORA") the entire case file of the case known to be in the possession of the Office of the District Attorney for the County of Muscogee [redacted], State of Georgia (Hereinafter "The State"). Along with a copy of the Indictment and the Final Disposition, in the above-referenced case, the sought-after records should include, but not be limited to:

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 16, 2014

Mr. Adrian D. Brown
GDC91791
Jenkins Correctional Center
3404 Kent Farm Drive
Millen Georgia 30442

Dear Mr. Brown:

I am in receipt of the Motion for Reconsideration and Notice of Intent for Petition for Certiorari in the above referenced appeal. I am returning your documents because neither of the filings contained a proper Certificate of Service. The 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.

Please also be aware that Mr. William Martin, III retired in 2010.

Sincerely,

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

SEC/ld
Enclosures

IN THE COURT OF APPEALS
STATE OF GEORGIA

ADRIAN DECARLOS BROWN., APPELLANT.	CASE # A14D0297
Vs.	
STATE OF GEORGIA., APPELLEE	

MOTION FOR RECONSIDERATION

NOW COMES THE APPELLANT HEREIN ABOVE AND MAKE THIS HIS MOTION FOR RECONSIDERATION OF THIS COURT DISMISSAL OF THE APPELLANT APPLICATION FOR DISCRETIONARY APPEAL, AND FOR CAUSE OF THIS ACTION THE APPLICANT SHOW'S THE FOLLOWING:

1

ON THE 4TH DAY OF APRIAL 2014 THIS COURT DISMISSED THE APPELLANT APPLICATION FOR DISCRETIONARY APPEAL ON THE GROUND THAT THE APPELLANT HAD UNTIMELY FILED THE APPLICATION BEYOND THE (30) DAYS REQUIRED BY O.C.G.A § 5-6-35 (d) CITING BOYLE V. STATE, 19 GA. APP. 734 (1989);

2

THE APPELLANT MAKE'S THIS REQUEST FOR RECONSIDERATION ON THE GROUND THAT THIS COURT IS SHOWN UTILIZING THE DATE THE APPLICATION WAS DOCKETED THEREIN THE SUPREME COURT OF GEORGIA WHICH WAS THE 22ND DAY OF JANUARY 2014, ALTHOUGH, THE APPELLANT FIRST FILED THIS APPLICATION IN THE SUPREME COURT OF GEORGIA THEREON THE 13TH DAY OF JANUARY 2014 AND TRANSFERED THERETO THIS COURT THEREON THE 20TH DAY OF FEBURARY 2014, WHICH BOYLE V. STATE, 19 GA. APP. 734 (1989); CITED AS AUTHORITY....

CON'T.

.....IN SUPPORT OF THE DISMISSAL OF THE APPLICATION FOR APPEAL IS MISPLACED, AS IT INVOLVE THE APPELLANT FAILING TO FILE AN APPLICATION FOR AN APPEAL FROM THE DENIAL OF A MOTION TO VACATE /OR SET ASIDE WHICH IS CONTRARY TO THE MATTER OF THE APPELLANT, IN THAT THE APPELLANT TIMEY FILED HIS PRO-SE APPLICATION ERRONEOUSLY WITHIN THE GEORGIA SUPREME COURT, WHICH IT HAS BEEN HELD THAT WHEN A CASE IS FILED ERRONEOUSLY IN THE WRONG APPELLATE COURT, THE COURT WOULD TRANSFER THE CASE TO THE RIGHT COURT AND THE (30) DAY'S TIME PERIOD IS TO BE COMPUTED FROM THE DATE OF THE FILING IN THE COURT TO WHICH SAID APPLICATION HAS BEEN TRANSFERED.....

SEE- C C FINANCIAL, INC. V. ROSS, 250 GA. 832, 301 S.E. 2d 262 (1983)., SMITH V. DEPT. OF HUMAN RESOURCES, 266 GA. APP. 491, 487 S.E. 2d 94 (1997)., IN UNDERCOFLER V. U.S. STEEL CORP. 219 GA. 264, 133 S.E. 2d 11 (1963)., O.C.G.A § 5-6-37., MARR V. GA. DEPT. OF Ed. 264 GA. 841, 452 S.E. 2d 112 (1995)., SPURLOCK V. DEPT. OF HUMAN RES. 286 GA. 512, 690 S.E. 2d 378 (2010)..,

THIS COURT RULING CALL'S INTO QUESTION ALL THE ABOVE COURT RULING WHICH ARE IN CONFLICT WITH GEORGIA SUPREME COURT DECISION'S WHICH SHOULD CAUSE THIS COURT TO RECONSIDER IT'S RECENT DECISION OF DISMISSAL.,

3

APPELLANT MAKE THIS REQUEST FOR RECONSIDERATION IN THAT THIS COURT DECISION OF DISMISSAL IS SHOWN IN VIOLATION OF THE PRISON MAIL BOX RULE., WHICH MUST BE APPLIED HEREIN THE SUBJECT CASE., AS THE APPELLANT IS IN FACT A STATE PRISONER WHOM IS SUBJECT TO GIVING HIS DOCUMENT'S TO THE PRISON OFFICIAL'S FOR DELIVERY TO THE COURT'S.....

CON'T.

.....WHICH UNDER THE MAIL BOX RULE, THE DATE ON WHICH THE PRISONER GIVES HIS MAIL TO THE PRISON OFFICIAL'S IS RULED TO BE THE DATE OF THE PRISONER FILING...SEE- HILL V. MILLER, 2014 U.S. DIST. LEXIS 2996;, PRICE V. PHILPOT, 420 F.3d 1165 (10TH CIR. 2005)..., WASHINGTON V. U.S., 243 F.3d 1299, 130 (11TH CIR. 2001); ALLEN V. CULLIVER, 471 F.3d 1196, 1198-99 (11TH CIR. 2006);

WHEREFORE, THE APPLICANT HAVING SUBMITTED HIS CASE TO THE PRISON OFFICIAL IN A TIMELY MANNER SHOWN THEREIN HIS CERTIFICATE OF SERVICE CLEARLY SHOULD REQUIRE THE COURT TO RECONSIDER IT'S ORDER OF DISMISSAL AND GRANT THE APPLICATION FOR DISCRETIONARY APPEAL...SEE- ADAMS V. U.S., 173 F.3d 1339 (11TH CIR. 1999); HUIZAR V. CAREY, 273 F.3d 1220 1222 (9TH CIR. 2001);.

THIS 10TH DAY OF April 2014.

/s/ Adrian DeCarlo Brown
ADRIAN D. BROWN
GDC#915791
3404 KENT FARM DR.
MILLEN, GA. 30442

SWORN TO AND SUBSCRIBED BEFORE ME.
THIS 10TH DAY OF April 2014

NOTARY PUBLIC

March 12, 2016
MY COMMISSION EXPIRE

KIMBERLY L. WILLIAMS
Notary Public, Georgia
Jenkins County
My Commission Expires
March 12, 2016

C.C.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE THIS DAY SERVED THE COURT OF APPEALS OF GEORGIA CLERK: WILLIAM L. MARTIN III WITH A TRUE AND CORRECT COPY OF MY "MOTION FOR RECONSIDERATION" BY MAILING THE SAME WITH SUFFICIENT POSTAGE AFFIXED THEREON ADDRESSED TO: SUITE 501 47 TRINITY AVE. ATLANTA, GA. 30334

THIS 10th DAY OF April 2014.

Adrian D. Brown

ADRIAN D. BROWN
GDC#912591
3404 KENT FARM DR.
MILLEN, GA. 30442

C.C.

FILED IN OFFICE
APR 11 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA.

IN THE COURT OF APPEALS OF GEORGIA
STATE OF GEORGIA

ADRIAN DECARLOS BROWN., APPELLANT.	CASE # A14D0287
VS.	
STATE OF GEORGIA., APPELLEE.	

RECEIVED IN OFFICE
2014 APR 14 PM 4:25
CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

NOTICE OF INTENTION TO PETITION
FOR CERTIORARI

NOW COMES THE APPELLANT HEREIN ABOVE AND FILE'S THIS NOTICE OF INTENTION TO PETITION FOR CERTIORARI TO THE GEORGIA SUPREME COURT FROM THE ADVERSED JUDGMENT SHOWN ENTERED BY THIS COURT OF APPEALS THEREON THE APPELLANT APPLICATION FOR DISCRETIONARY APPEAL, WHICH CARY'S INTO QUESTION GEORGIA STATUTORY LAW'S ALONG WITH IT'S CONSTITUTION'S.,

THIS NOTICE IS BEING FILED WITHIN THE (10) DAYS REQUIREMENT PURSUANT TO THIS COURT RULE 38.(A)(1).,

THIS 10th DAY OF April 2014.

Adrian D. Brown
ADRIAN D. BROWN
GDC#
3404 KENT FARM DR.
MILLEN, GA. 30442

SWORN TO AND SUBSCRIBED BEFORE ME.
THIS 10th DAY OF April 2014

Kimberly L. Williams
NOTARY PUBLIC

March 12, 2016
MY COMMISSION EXPIRES

KIMBERLY L. WILLIAMS
Notary Public, Georgia
Jenkins County
My Commission Expires
March 12, 2016

CERTIFICATE OF SERVICE

I CERTIFY THAT I HAVE SERVED MY NOTICE OF INTENTION TO PETITION FOR CERTIORARI UPON THE CLERK: WILLIAM L. MARTIN III OF THE COURT OF APPEALS OF GEORGIA BY MAILING THE SAME TO: 47 TRINITY AVE. SUITE 501 ATLANTA, GA. 30334 WITH SUFFICIENT POSTAGE AFFIXED.,

THIS 10th DAY OF April 2014

/s/ Adrian D. Brown
ADRIAN D. BROWN
GDC# 915792
3404 KENT FARM DR.
MILLEN, GA. 30442

C.C.

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 18, 2014

Mr. Phillip L. Freeman
GDC550474 L-1
Macon State Prison
Post Office Box 426
Oglethorpe, Georgia 31068

RE: A13A1007. Phillip L. Freeman v. The State
A13A1442. Phillip L. Freeman v. The State

Dear Mr. Freeman:

As requested, please find enclosed copies of the opinions in the above referenced appeals.

Sincerely,

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

SEC/ld
Enclosures

THIRD DIVISION
ANDREWS, P. J.,
DILLARD and MCMILLIAN, JJ.

August 22, 2013

NOT TO BE OFFICIALLY REPORTED

In the Court of Appeals of Georgia

A13A1442. FREEMAN v. THE STATE.

ANDREWS, Presiding Judge.

Phillip Freeman appeals after a jury convicted him of aggravated child molestation. Freeman contends that the evidence was insufficient to support the verdict. After reviewing the record, we disagree and affirm.

"On appeal from a criminal conviction, a defendant no longer enjoys the presumption of innocence, and the evidence is viewed in the light most favorable to the guilty verdict. . . . [W]e neither weigh the evidence nor assess the credibility of witnesses, but merely ascertain that the evidence is sufficient to prove each element of the crime beyond a reasonable doubt. Moreover, conflicts in the testimony of the witnesses are a matter of credibility for the jury to resolve. As long as there is some competent evidence, even though contradicted, to support each fact necessary to make

out the [S]tate's case, the jury's verdict will be upheld." (Punctuation and footnotes omitted.) *Goss v. State,* 305 Ga. App. 497, 497-498 (699 SE2d 819) (2010).

So viewed, the evidence at trial was that Freeman was married to K. F.'s ("the victim's") mother and adopted K. F. when she was 13. In 2008, when the victim was 15, Freeman started talking to her about masturbating. Freeman gave her a vibrator and would ask her if she was using it. At least one time during this period, Freeman came to the victim's room and performed oral sex on her. The victim stated that Freeman also used the vibrator on her at least once.

The victim testified that Freeman would call her while he was at work and ask her to use the vibrator while he listened. The victim recorded one of Freeman's phone calls and this was introduced into evidence.

Freeman's wife, the victim's mother, said that when she confronted Freeman, he admitted to using a vibrator on the victim, admitted to oral sex with the victim, and admitted to calling the victim at night while he was at work and having phone sex with her.

K. F.'s older sister testified that Freeman also gave her a vibrator and told her not to tell her mother that he gave it to her. The sister said that K. F. told her that Freeman had given her a vibrator and engaged in oral sex with her. K. F. told her

sister that Freeman would call her and ask her to use the vibrator while he was on the phone with her. K. F.'s best friend testified that K. F. told her that Freeman had oral sex with her. The State introduced phone records that showed 56 phone calls from Freeman to K. F. late at night between June 23 and August 31.

Freeman testified in his own defense and admitted to talking to K. F. about masturbation and admitted to giving her a vibrator. He also admitted to having phone sex with her. Freeman denied performing oral sex on the victim. He admitted that he mentioned oral sex with her in the phone conversations but insisted that he never did anything.

The evidence was sufficient for the jury to find Freeman guilty of child molestation beyond a reasonable doubt. *Jackson v. Virginia*, 443 U. S. 307 (99 SCt 2781, 61 LE2d 560) (1979). The law in Georgia is that "the victim's testimony alone is generally sufficient to establish the elements of child molestation." *Knight v. State,* 311 Ga. App. 367, 368 (715 SE2d 771) (2011). See also *Barnes v. State,* 299 Ga. App. 253, 254 (682 SE2d 359) (2009) (Georgia law does not require corroboration of a child molestation victim's testimony.).

In this case, there was evidence that corroborated the victim's testimony. Freeman admitted at trial that the victim's testimony was truthful with the exception

of the oral sex allegation. His e-mail showed that he was sexually interested in his daughter, the mother stated that Freeman admitted that he performed oral sex on K. F., and K. F.'s sister and friends testified that K. F, told them about the oral sex. The jury, as the arbiter of fact was entitled to believe the victim's statements to her friends and family and her testimony at trial and to disbelieve Freeman's testimony that he did not have oral sex with the victim. *Dorsey v. State*, 265 Ga. App. 597, 599 (595 SE2d 106) (2004); *Dotson v. State*, 276 Ga. App. 418, 420 (623 SE2d 252) (2005).

Judgment affirmed. Dillard and McMillian, JJ., concur.

Court of Appeals
of the State of Georgia

ATLANTA, February 22, 2013

The Court of Appeals hereby passes the following order:

A13A1007. PHILLIP L. FREEMAN v. THE STATE.

On August 11, 2011, Phillip Lamar Freeman was convicted of aggravated child molestation. Freeman timely moved for a new trial. He later voluntarily withdrew his motion for new trial and, on December 20, 2012, filed a notice of appeal.

We lack jurisdiction. A notice of appeal must be filed within 30 days of the judgment being appealed. See OCGA § 5-6-38 (a). The timely filing of a motion for new trial extends the running of this 30-day clock until the trial court disposes of the motion. Id. Absent a court order resolving the motion, however, the appeal time is not extended. As our Supreme Court has ruled, "OCGA § 5-6-38 requires a *trial court order* granting, denying, or otherwise finally disposing of a party's motion for new trial in order to extend the time for filing a notice of appeal." *Heard v. State*, 274 Ga. 196, 197 (1) (552 SE2d 818) (2001). A unilaterally withdrawn motion for new trial, standing alone, does not toll the appeal time. Id.

In this case, Freeman voluntarily withdrew his motion for new trial. The trial court neither ruled on the motion nor granted Freeman permission to withdraw it. The time for filing his direct appeal, therefore, was not extended, and his notice of appeal was untimely because it was filed more than 30 days after his conviction. Id. See *Simmons v. State*, 276 Ga. 525 n.1 (579 SE2d 735) (2003) ("A defendant's withdrawal of his motion for new trial, without more, does not extend the time within which a timely notice of appeal may be filed and, if a notice of appeal is not filed within 30 days of the judgment of conviction, results in the loss of the right to a direct appeal.") Accordingly, we cannot consider Freeman's appeal, which is hereby DISMISSED.

We note, however, that Freeman may be entitled to pursue an out-of-time appeal. He is therefore informed of the following in accordance with *Rowland v. State*, 264 Ga. 872 (452 SE2d 756) (1995): This appeal has been dismissed because your counsel failed to file a timely notice of appeal. If you still wish to appeal, you may petition the trial court for leave to file an out-of-time appeal. If the trial court grants your request, you will have 30 days from the entry of that order to file a notice of appeal referencing your conviction. If the trial court denies your request, you will have 30 days from the entry of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.

The Clerk of Court is directed to send a copy of this order to Freeman and Freeman's attorney, and the latter is also directed to send a copy to Freeman.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/22/2013
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.

Holly K. A. Spanos, ***Clerk.***

4/9/14

Phillip L. Freeman
#550474, F-2, PO Box 426
Oglethorpe, GA 31068

RE: COPY OF
OPINIONS
CASE # A13A1007
A13A1442

Mr. S.E. Castlen, Clerk
47 Trinity Ave. / Ste. 501
ATLANTA, GA 30334

Clerk Castlen:

Please help. I am pro se, indigent litigant that has never received a copy of the Court's rulings in the two cases: A13A1007 and A13A1442. I contend that the rules and law support me in requesting a copy - for free.

I pray for a response and thank-you in advance.

Respectfully,
Philip L. Freeman

Philip Freeman

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

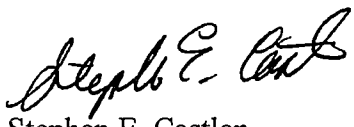
April 18, 2014

Mr. James Allen Cobb
GDC1160608 K-1-23
Georgia State Prison
2164 Georgia Highway 147
Reidsville, Georgia 30499

Dear Mr. Cobb:

In response to your correspondence received in this office, we do not have a case styled in your name pending in this Court. Until a case is docketed in this Court, all communications should be directed to your attorney or to the trial court.

Sincerely,



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

SEC/ld
Enclosures

Petition

I am James Allen Cobb, this is a Petition Pertaining to a motion To correct Sentence, O.C.G.A. 17-10-1, which states in Pertinent Part: The Judge imposing the Sentence(s) is granted Power and authority to suspend or Probate all or any Part of the entire Sentence under such rules and regulations as the Judge deems Proper." my motion To correct Sentence was denied April 2, 2014. my "Final Disposition", and my Plea sheet titled "Sworn "Statement of Defendant" States "two" different Sentences in which I only Plead to "one". what I Plead to is "actually" what's on my "Final Disposition", I was sentenced to ten years without Parole under 17-10-7(c), Sentence to run concurrent with "any" other sentence now serving with "Credit for time Served." This crime was committed on July 20, 2006, Commercial burglary (Second Degree), and theft of motor vehicle or Part, in which I recieved five years Probation Consecutive. on my "Sworn statement of Defendant", that is, this document established the Pre-Sentence Stipulations agreed by the District Attorney and myself within the negotiated Plea. under the terms of this Plea agreement it was agreed that " I understand that if I Plea guilty to the charge(s), the District Attorney will recommend as Punishment:

Count one, "Burglary": 10 years to serve concurrent with sentence Presently serving.

Count two, "Theft of motor Vehicle or Part": 5 years Probation Consecutive to count one. This stipulation is listed

Under "12" on the "sworn statement of Defendant. In addition, it was further stipulated "I understand that the court does not have to accept a negotiated Plea: but if the court rejects this Plea I will be allowed to withdraw my Plea of guilty and return to the same legal Position I held before entering my Plea." (This stipulation is listed under "13" on the sworn statement of Defendant.) "on my motion To correct sentence that was denied April 2, 2014, the Judge "Robert s. Reeves" claims the court "did" accept the negotiated Plea, but... it is clearly undisputed and evident that the court did "not" accept the negotiated Plea, because he claims he sentenced me as a recidivist to serve 10 years without Parole under 17-10-7 (c), but, on the "sworn statement of Defendant", it says "nothing" indicating anything at all Pertaining to being sentenced as recidivist, it Says nothing whatsoever about ten years without Parole under 17-10-7 (c). It clearly states "10 years to serve Concurrent with sentence Presently Serving." so therefore the contract (sworn statement of defendant) was breached because it was at the last moment something was being Said about ten years without Parole. I told my court appointed attorney, I actually Put a halt to what was being Said, I told my attorney, I want credit for time served, it took nearly "four" years to get sentenced for the charge(s), I've been confined ever since July 22nd, 2006, and the crime was committed July 20th, 2006. It was agreed "then" to give me

Credit for time served, it shows clearly on my Final disposition. my release should be July 22nd, 2016, "lawfully", but instead it is wrongly march of 2020, because the Judge is of a sudden claiming he "didn't" say he'd give me credit for time served for the time I had done, he's written several letters denying he'd give me credit for time served, he urges me to stop writing him and to stop filing motions. He says that "with credit for time served" is not in the "Plea agreement" on the "sworn statement of defendant", he claims it to be a scriveners "error", he claims it was an "accident", it wasn't, it's what my lawyer stated and what "he" agreed to, but, it is undisputed, because it isn't in the "Plea agreement" on the sworn "statement of defendant", in that "same-result", neither is 10 years without Parole under 17-10-7 (c) on the sworn statement of defendant or in the "Plea agreement" either, he claims "that" is correct though. Now if it "is" correct, that he sentenced me as a recidivist to 10 years without Parole under 17-10-7 (c), that's "Proof" enough that the court did "not" accept the negotiated Plea as I stated earlier in the Petition. which means, that I indeed entered a Plea not knowingly, freely and voluntarily, because I had "signed" the sworn Statement of defendant "Prior" to getting the sentence, in which, on the Plea sheet, "I understood that the Court doesn't have to accept a negotiated Plea," as

I stated, that stipulation is listed under 15 on the "sworn statement of defendant", as well as it is clear that I signed to serve "10 years concurrent with sentence presently serving." All in all, the contract was indeed breached, and the sentence is void, "especially" with this case having a year as a number that it wasn't committed in, in which, this case number is 09-CR-214, the crime was committed in 2006. Automatically, my indictment was defected. my counsel knew all of this as well, and he failed to object. Furthermore, on this motion that was denied April 2, 2014, it is here that the Judge says that the "maximum" sentence for second degree burglary I couldve recieved "twenty" years, on my plea sheet it states I would have got "thirty" years. According to Burglary (16-7-1) in the second degree, a person who commits it gets no more than "five" years of confinement, upon any "conviction" and it being the "second", a person gets no more than "eight" years, but I recieved "ten" years for my "first" conviction of second degree burglary, but, since it is evident the court rejected the negotiated plea, I should be allowed the position I held before entering it as the sworn statement of defendant says. Additionally, my assistance of counsel was indeed ineffective. my motion to correct sentence was denied when it should have been granted. I have all documents to show as evidence for what "this" petition is pertaining to. I pray that the court of appeals of Georgia grant this petition.

James Allen Cobb

James Allen Cobb #1160608
K-1 cell 23
Georgia state prison
2164 GA. Hwy 147
Reidsville, GA, 30499

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 22, 2014

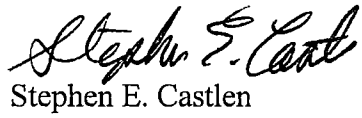
Mr. Bruce M. Greer
GDC823740 D-1
Rutledge State Prison
7175 Manor Road
Columbus, Georgia 31907

RE: A14A1029. Bruce M. Greer v. The State

Dear Mr. Greer:

The above appeal was dismissed on March 21, 2014. Your untimely Motion for Reconsideration was received on April 3, 2014. I have attached a copy of the order denying the Motion for Reconsideration originally mailed to you on April 17, 2014.

Sincerely,



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

SEC/ld
Enclosure

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

RE: APPEAL NO.
MOTION FOR RECONSIDERATION

DEAR CLERK,

ABOUT 2 WEEKS AGO I FILED FOR RECONSIDERATION ON ~~ABOUT~~ ABOVE SAID CASE.

IT WAS MAILED OUT INDIGENT MAIL VIA THE PRISON MAILBOX. BUT I'VE HAD TROUBLE WITH THIS TYPE MAILING BEFORE. ONE OF MY MOTIONS SAT IN THE BUSINESS OFFICE FOR ALMOST 3 WEEKS.

PLEASE ADVISE IF YOU HAVE INDEED RECEIVED SAID "MOTION FOR RECONSIDERATION".

THIS 16TH DAY OF APRIL, 2014.

RESPECTFULLY SUBMITTED,
Bruce M. Greer
BRUCE M. GREER #823740
RUTLEDGE STATE PRISON / D-1
7175 MANOR RD.
COLUMBUS, GA 31907

Court of Appeals
of the State of Georgia

ATLANTA, March 21, 2014

The Court of Appeals hereby passes the following order:

A14A1029. BRUCE M. GREER v. THE STATE.

Bruce Greer was convicted of armed robbery, aggravated assault, and other crimes. We affirmed his convictions in an unpublished opinion. See *Greer v. State*, Case No. A03A0526 (decided March 19, 2003). Greer later filed an extraordinary motion for new trial, which the trial court denied. He sought discretionary review of that ruling, but we denied his application. See *Greer v. State*, Application No. A09D0332 (decided May 11, 2009). Greer then filed a "Motion to Vacate And/Or Set Aside Judgment Obtained By Perjury."[1] The trial court denied that motion, and Greer appeals. We, however, lack jurisdiction.

"[A] petition to vacate or modify a judgment of conviction is not an appropriate remedy in a criminal case." *Harper v. State*, 286 Ga. 216, 218 (686 SE2d 786) (2009). Any appeal from an order denying such a motion must be dismissed. See id.; *Roberts v. State*, 286 Ga. 532 (690 SE2d 150) (2010). Because Greer is not authorized to collaterally attack his conviction in this manner, his appeal must be dismissed. See id.; see also *Harper v. State*, supra at 218 (1); *Matherlee v. State*, 303 Ga. App. 765 (694 SE2d 665) (2010). Accordingly, this appeal is hereby DISMISSED for lack of jurisdiction. Greer's "Motion To Correct A Misquote" is DISMISSED as MOOT.

---

[1] Greer also has apparently filed both state and federal habeas corpus petitions. Those petitions, and Greer's subsequent appeals, have been denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 03/21/2014

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. Castlen, *Clerk.*

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 22, 2014

To: Mr. Patrick Davis, GDC973611, Georgia Diagnostic and Classification Center, State Prison, Post Office Box 3877, Jackson, Georgia 30233

Docket Number: A14A0632 **Style: Patrick Davis 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: The Appellee's Reply Brief was filed April 8, 2014. We are returning your documents to you.**

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

IN THE COURT OF APPEALS
STATE OF GEORGIA

Patrick Davis,
Appellant,

v.

State of Georgia
Appellee.

Case No. A14A0632

REPLY TO APPELLEE BRIEF

Come Now Appellant Patrick Davis, Prose, pursuant to Court Rule 23(c), with his Reply to Appellee Brief.

In Appellee's Brief Part One "Statement of Facts," it states that on January 8, 2004 was indicted for two counts of murder (Count I and II) and seven counts of felony murder (Count III, IV, V, VI, VII, and IX), but record reflects that said indictment was for three counts of murder (Count I, II, and X) and eight counts of felony murder (Count III, IV, V, VI, VII, VIII, IX, and XI) and one count of Aggravated assault on a police officer (Count XII; A twelve count indictment, stemming from the same incident in the 1998 case. [Record, hereinafter "R" at 294-299].

On June 2, 2005, Appellant pleaded guilty to the Reduced charge of conspiracy to commit Aggravated Assault on a felony Murder count (Count III) And the State dead-docket the Remaining charges of the indicted charges of the twelve count indictment which included the Aggravated Assault on a police officer. [R. 457].

In Appellee's Brief Part Two - "Arugment And Citation of Authority Because The Lower Court Lacked Jurisdiction To Consider Davis' Motion For Reconsideration of Motion of Out-of-Time Motion To Withdraw Guilty Plea, It Properly Denied The Motion", the trial states it lacked jurisdiction because the court term has expired. However, "Where a valid sentence is not passed at the term of court in which the conviction occurs, the court does not lose jurisdiction of the case And may pronounce sentence at a succeeding term. Davis v. State, 192 GA 648, 16 S.E. 2d 428 (1941)." Appellant has established that his conviction was void in the habeas court when the court set aside And vacated the Murder charges And he quotes Clue v. State, 273 GA. App 672, 615 S.E. 2d 800 (2005) "The finding of ineffective Assistance as to Count 1-4, the counts for which Clue Received the greatest sentences (the trial court Abused its discretion by not permitting Clue to withdraw his guilty plea on Count 5 and 6), "undermined the voluntariness And the validity of the plea As to the

Remaining counts of the indictment." Shabazz v State, 259 803 *803 GA. App. 339, 342(3), 577 SE 2d 45(2003)"(denial of effective assistance of counsel to defendant in entering guilty plea on incest count also tainted voluntariness and validity of guilty plea on separate count of statutory rape). It follows that the trial court should have permitted Clue to withdraw his guilty plea on Counts 5 and 6 in order to avoid a manifest injustice. [R. 270-272].

Appellee failed to acknowledge Appellant's claim of filing his Motion To Correct Illegal or Void Sentence [R. 275-289] in which was filed on September 22, 2003 and before Resentence, however, the record does not reflect that said motion was ruled upon but Appellant was indicted on January 8, 2004 on all charges that were in the original case (CR#98-CR-01057-2), including the aggravated assault upon a police officer [R. 211; 294-299]. As in Syms v State, 244 GA. App. 21, 22(2), 534 S.E. 2d 502(2000)" Where a sentence is void ab initio, a trial court has both the jurisdiction and obligation to vacate the sentence", Appellant's plea and conviction as to the aggravated assault upon a police officer is void and the trial court has jurisdiction and obligation to vacate his conviction and sentence. Therefore, his motion is not moot in the light of justice.

Appellee argues that Appellant does not show that his motion to withdraw his guilty plea should be grant because because did not contend on appeal the lower court imposed

A sentence that was not authorized by law and cites Kaiser v. State. However, in reviewing Appellant's brief he has demostrated the similarities in his case to Kaiser v. State and he also quoted said case in his Application for Discretionary Appeal [R. 517 - Application for Discretionary Appeal] Appellant shows by record that he filed a Motion to Correct Illegal or void sentence because resentence, he presents that he is stilling serving a void sentence because his conviction and sentence of aggravated assault upon a police officer was illegal and quotes O.C.G.A. 17-10-1(f) "A void sentence may be correct at any time, even though the time for medifying a sentence has passed." Appellants also shows that due to the negotiation of his plea and the fact that the greater charges of the deal was found to be void all other charges is void. Compare State v. Sellers, 222 AD 2d 941, 635 N.Y.S. 2d 773 (N.Y. App. Div. 1995) (noting that "while the remainder of the sentence on conspiracy charge was legal, because that was part and parcel of the plea bargain, it must also be vacated" and defendant must be given the opportunity to withdraw his guilty plea"); Rojas v. State, 52 Md. App. 440, 450 A 2d 490, 494 (1982) (concluding that if a material of a negotiated plea agreement has been vacated as a mistake of law, "the fairest remedy is to rescind the entire plea agreement"). [R. 457; 275-281; 294-299]. Therefore, Appellant motion should be considered as a timely motion in arrest of judgment along with all other rules and laws that he is protected by his Constitution rights.

Appellee points out that the record is devoid of any evidence

that Appellant appealed the habeas corpus final judgment, and Appellant must rely the record to also prove that he was not given a hearing in the said habeas corpus proceeding and was not informed of his rights to appeal [R. 269-272]. Because Appellant was not inform of his rights the time to appeal or withdraw his guilty plea has not begun. Crossons v. Conway, 291 GA 220, 728 S.E. 2d 617 (2012) Compliance not excuse for failure to inform pro se habeas petitioner of the statute's requirements - Compliance with O.C.G.A. 5-6-35 cannot be excused for failure to abide by a judicially imposed rule that the habeas corpus petitioner be informed of that statute's requirements. "In Georgia, an out-of-time appeal is the remedy for a frustrated right of appeal, where the appellant was denied his right of appeal through counsel's negligence or ignorance, or if the appellant was not adequately informed of his appeal rights. [Cit.]... A defendant has a right to appeal directly the denial of his timely motion to withdraw a guilty plea. See. Caine v. State, 266 GA. 421, 467 S.E. 2d 570 (1996)... Murray was not advised of his right to appeal rights. This... lack of information frustrated Murray's right to a direct appeal, entitling him to appeal out of time the order on his motions to withdraw his guilty plea. [Cits.]" Clayton County Board of Education v. Wilmer, Clayton County Board of Education v. Nichole, A13A2088, A13A2094. January 24, 2014 under O.C.G.A. 20-2-1160(b) The State Board, has held that under these circumstances the 30 day period for filing an appeal

does not begin to run until a local board complies with the notice provisions of subsection (A) of the Code section, which provides that "the local board shall notify the parties in writing of the decision and of their right to appeal the decision to the State Board of Education and shall clearly describe the procedure and requirements for such an appeal." And though Appellant was not informed of his rights to appeal he did file a Motion to Correct Illegal or Void Sentence [R. 275-289]. Said motion was filed in the trial court, the court that indicted and sentence him for all charges of the original final disposition which included the aggravated assault upon a police officer [R. 294-299]. Such fact cause an issuse of law because as stated in Clue v State, 263 GA App 672, 615 S.E. 2d 800 (2005) being that the aggravated assault upon a police officer was of the same plea agreement, as the murders, it too, is void and being that it is void the trial court had both the jurisdiction and obligation to vacate the sentence, Syms v State, 244 GA App. 21 22(2), 534 S.E. 2d 502 (2000). As the records reflects, Appellant was presented with impression that the trial court was abiding to law when it indicted Appellant with all charges in indictment 2004CR00035. [R 294-299].

Appellant prays that this court find that he is serving a void sentence and grants him relief and justice.

This 5th day of March 2014.

Patrick Davis

IN THE COURT OF APPEALS
STATE OF GEORGIA

Patrick Davis,
Appellant,

v.

State of Georgia
Appellee.

Case No. A14A0632

REPLY TO APPELLEE BRIEF

Come Now Appellant Patrick Davis, Prose, pursuant to Court Rule 23(c), with his Reply to Appellee Brief.

In Appellee's Brief Part One "Statement of Facts," it states that on January 8, 2004 was indicted for two counts of murder (Count I and II) and seven counts of felony murder (Count III, IV, V, VI, VII, and IX), but record reflects that said indictment was for three counts of murder (Count I, II, and X) and eight counts of felony murder (Count III, IV, V, VI, VII, VIII, IX, and XI) and one count of Aggravated assault on a police officer (Count XII; a twelve count indictment, stemming from the same incident in the 1998 case. [Record, hereinafter "R" at 294-299].

On June 2, 2005, Appellant pleaded guilty to the Reduced charge of conspiracy to commit aggravated assault on a felony murder count (Count III) and the State dead-docket the remaining charges of the indicted charges of the twelve count indictment which included the aggravated assault on a police officer. [R. 457].

In Appellee's Brief Part Two - "Arugment and Citation of Authority Because The Lower Court Lacked Jurisdiction To Consider Davis' Motion For Reconsideration of Motion of Out-of-Time Motion To Withdraw Guilty Plea, It Properly Denied The Motion," the trial states it lacked jurisdiction because the court term has expired. However, "Where a valid sentence is not passed at the term of court in which the conviction occurs, the court does not lose jurisdiction of the case and may pronounce sentence at a succeeding term. Davis v. State, 192 GA 648, 16 S.E. 2d 428 (1941)." Appellant has established that his convictions was void in the habeas court when the court set aside and vacated the murder charges and he quotes Clue v. State, 273 GA. App 672, 615 S.E. 2d 800 (2005) "The finding of ineffective assistance as to Count 1-4, the counts for which Clue received the greatest sentences (the trial court abused its discretion by not permitting Clue to withdraw his guilty plea on Count 5 and 6)," undermined the voluntariness and the validity of the plea as to the

Remaining counts of the indictment." Shabazz v State, 259 803 *803 Ga. App. 339, 342(3), 577 SE 2d 45(2003)"(denial of effective assistance of counsel to defendant in entering guilty plea on incest count also tainted voluntariness and validity of guilty plea on separate count of statutory rape). It follows that the trial court should have permitted Clue to withdraw his guilty plea on Counts 5 and 6 in order to avoid a manifest injustice. [R. 270-272].

Appellee failed to acknowledge Appellant's claim of filing his Motion To Correct Illegal or Void Sentence [R. 275-289] in which was filed on September 22, 2003 and before Resentence, however, the Record does not Reflect that said motion was Ruled upon but Appellant was indicted on January 8, 2004 on All charges that were in the original case (CR#98-CR-01057-2), including the aggravated assault upon a police officer [R. 211; 294-299]. As in Syms v State, 244 Ga. App. 21, 22(2), 534 S.E. 2d 502(2000) "Where a sentence is void ab initio, a trial court has both the jurisdiction and obligation to vacate the sentence", Appellant's plea and conviction as to the aggravated assault upon a police officer is void and the trial court has jurisdiction and obligation to vacate his conviction and sentence. Therefore, his motion is not moot in the light of justice.

Appellee argues that Appellant does not show that his motion to withdraw his guilty plea should be grant because because did not contend on appeal the lower court imposed

A sentence that was not authorized by law and cites Kaiser v. State. However, in reviewing Appellant's brief he has demostrated the similarities in his case to Kaiser v. State and he also quoted said case in his Application for Discretionary Appeal [R. 517 - Application for Discretionary Appeal] Appellant shows by record that he filed a Motion to Correct Illegal or void sentence because resentence, he presents that he is stilling serving a void sentence because his conviction and sentence of aggravated assault upon a police officer was illegal and quotes O.C.G.A. 17-10-1(f) "A void sentence may be correct at any time, even though the time for modifying a sentence has passed." Appellants also shows that due to the negotiation of his plea and the fact that the greater charges of the deal was found to be void all other charges is void. Compare State v. Sellers, 222 AD 2d 941, 635 N.Y.S. 2d 778 (N.Y. App. Div. 1995) (noting that "while the remainder of the sentence on conspiracy charge was legal, because that was part and parcel of the plea bargain, it must also be vacated" and defendant must be given the opportunity to withdraw his guilty plea"); Rojas v. State, 52 Md. App. 440, 450 A 2d 490, 494 (1982) (concluding that if a material of a negotiated plea agreement has been vacated as a mistake of law, "the fairest remedy is to rescind the entire plea aggreement"). [R. 457: 275-281, 294-299]. Therefore, Appellant motion should be considered as a timely motion in arrest of judgment along with all other rules and laws that he is protected by his Constitution Rights.

Appellee points out that the record is devoid of any evidence

that Appellant appealed the habeas corpus final judgment, and Appellant must rely the record to also prove that he was not given a hearing in the said habeas corpus proceeding and was not informed of his rights to appeal [R. 269-272]. Because Appellant was not inform of his rights the time to appeal or withdraw his guilty plea has not begun. ~~Crossons v. Conway~~, 291 GA 220, 728 S.E. 2d 617 (2012) Compliance not excuse for failure to inform pro se habeas petitioner of the statute's requirements - Compliance with O.C.G.A. 5-6-35 can not be excused for failure to abide by a judicially imposed rule that the habeas corpus petitioner be informed of that statute's requirements. "In Georgia, an out-of-time appeal is the remedy for a frustrated right of appeal, where the appellant was denied his right of appeal through counsel's negligence or ignorance, or if the appellant was not adequately informed of his appeal **rights**. [Cit.]... A defendant has a right to appeal directly the denial of his timely motion to withdraw a guilty plea. See. Caine v. State, 266 GA. 421, 467 S.E. 2d 570 (1996)... Murray was not advised of his right to appeal rights. This... lack of information frustrated Murray's right to a direct appeal, entitling him to appeal out of time the order on his motions to withdraw his guilty plea. [Cits.]" Clayton County Board of Education v. Wilmer. Clayton County Board of Education v. Rachele. A13A2088, A13A2094. January 24, 2014 under O.C.G.A. 20-2-1160(b) The State Board, has held that under these circumstances the 30 day period for filing an appeal

does not begin to run until a local board complies with the notice provisions of subsection (A) of the Code section, which provides that "the local board shall notify the parties in writing of the decision and of their right to appeal the decision to the State Board of Education and shall clearly describe the procedure and requirements for such an appeal." And though Appellant was not informed of his rights to appeal he did file a Motion to Correct Illegal or Void Sentence [R. 275-289]. Said motion was filed in the trial court, the court that indicted and sentence him for all charges of the original final disposition which included the aggravated assault upon a police officer [R. 294-299]. Such fact cause an issuse of law because as stated in Clue v State, 263 GA App. 672, 615 S.E. 2d 800 (2005) being that the aggravated assault upon a police officer was of the same plea agreement, as the murders, it too, is void and being that it is void the trial court had both the jurisdiction and obligation to vacate the sentence, Syms v. State, 244 GA App. 21 22(2), 534 S.E. 2d 502 (2000). As the records reflects, Appellant was presented with impression that the trial court was abiding to law when it indicted Appellant with all charges in indictment 2004CR00035. [R 294-299].

Appellant prays that this court find that he is serving a void sentence and grants him relief and justice.

This 5th day of March 2014.

Patrick Davis

CERTIFICATE OF SERVICE

Patrick Davis,
Appellant,
v.
State of Georgia,
Appellee.

Case No. A14A0632

I do declare and swear on this day serve a true and correct copy of this Reply To Appellee Brief by depositing copy in the U.S. Mail Box with sufficient postage on the envelope addressed to:

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

Frances C. Kuo
Clayton County D.A. Office
9151 Tara Blvd.
Jonesboro, GA 30236

This 6th day of March, 2014.

Patrick Davis

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 22, 2014

To: Mr. Norman Davis, GDC1043303, Macon State Prison, Post Office Box 426, Oglethorpe, Georgia 31068
Docket Number: A14A0927 **Style**: Norman Davis 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: Any information you desire the Court to have concerning your case must be filed by your attorney of record. I am returning your document in case you may wish to discuss it with your attorney.**

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

In The Court of Appeals
State of Georgia

Norman Davis *
1043303
Appellant *
v. *
The State *
Appellee *

Appeal # A14D927

On Appeal from the Superior Court
of Decatur County
State of Georgia

Appellant's Supplemental Brief
To Dismiss This Appeal # A14D927

Norman Davis
1043303
Macon State Georgia
P.O. Box 426
Oglethorpe. Ga 31068

In The Court Of Appeals
State of Georgia

Norman Davis 1043303 Appellant	*	Case No# A14 0037
v.	*	
The State Appellee	*	
	*	

Comes now Norman Davis. Appellant in the above styled appeal to supplement his brief to move this honorable court to dismiss this appeal for whereas follows... for lack of jurisdiction..

(1.)

This honorable court lack jurisdiction to review appealed issue upon merits. Only the Supreme Court of Georgia is proper court of jurisdiction to review grounds raised and argued upon hearing in a habeas corpus. Spiller v State 282 Ga 351 (a) 647 SE 2d 64 (2007). Simmons v. State 276 Ga 525. 526-27. 579 SE 2d 735 (2003).

(2.)

Appellant upon motion for new trial was represented by Valerie Cochran. The trial court of Decatur County denied the new trial motion upon order filed Nov 20. 2012

(3.)

Ms Cochran submitted "No" notice of appeal wherefore 30 days for timely appeal past and expired Dec 20. 2012.

(4)

Appellant filed a petition for writ of habeas corpus in Macon County March 15. 2013 case # 2013 CV 107 amended May 2013 and June 2013.

(5.)

The Attorney General of Georgia office submitted return and answer by Assistance Attorney General Benjamin H. Pierman on Nov 6. 2013.

(6.)

The Macon County Superior Court held a evidentiary hearing at the Macon State Prison on Nov 14. 2013 whereat evidence was received upon the grounds now listed as enumeration of error on appeal.

Subsequent To Habeas Hearing

The trial court of Decatur County filed order Nov 15. 2013 denying Valerie Cochran motion to withdraw.

(7.)

Subsequent the trial court filed another order Nov 18. 2013 wherein ordered Ms Cochran to file an appeal by Dec 16. 2013 On Nov 19. 2013 Ms Cochran filed her second motion to withdraw upon Appellants claim of ineffective assistance On Dec 9. 2013 the trial court removed Ms Cochran and appointed Michael Tarleton wherein states Ms Cochran failed to file a notice of appeal. However Mr Tarleton is directed to file a notice of appeal bringing the present appeal to this honorable court in lack of jurisdic

LAW

This honorable court lack jurisdiction to hear this appeal upon the merits of enumeration of errors. Because the trial court of Decatur County lacked jurisdiction to order the appointment of new counsel and for Mr Tarleton to file a notice of appeal, after the 30 days for a timely appeal had expired Dec 20. 2013 And subsequent to the Macon Superior Habeas corpus court held a Nov 14. 2013 hearing upon the **same** issues now enumerated on appeal.

In 287 Ga 414 Davis v. The State (2010) 696 SE 2d 644 the Georgia Supreme Court held that matters litigated in a habeas proceeding are collaterally estopped from being re-litigated elewhere. Spiller v. State 282 Ga 351 (2) 647 SE 2d 64 (2007) See: Simmons v. State. 276 Ga 525. 526-27. 579 SE 2d 735 (2003).

The trial court of Decatur County taking of action while case pending in habeas court for a decision is improper. And such directive compell Mr Tarleton to render ineffective assistance depriving Appellant an opportunity to be heard upon his claim of ineffective assistance listed within Ms Cochran motion to withdraw. Wherein the trial courts Dec 9. 2013 order it found that Ms Cochran failed to file an appeal constituting ineffective representation whereby Mr Tarleton was appointed This case is in the proper jurisdiction of the Macon County Superior Court whereso Appellant request and shows that this appeal shall be Dismiss.

This 8th day of April 2014

Norman Davis

Norman Davis 1043503
Macon State Prison

Certificate of Service

This is to certify that I Norman Davis has served the foregoing Supplemental Brief upon the below listed through U.S. mail by deposit a true and correct copy of the same with proper address and sufficient postage to delivery.

Served: Joseph Mulholland
D.A South Georgia Circuit
P.O. Box 1870
Bainbridge Ga 39818

This 8th day of April 2014
Norman Davis
Norman Davis
1043303
Macon State Prison
P.O. Box 426
Oglethorpe Ga 31068

Norman Davis
1043303
Macon State Prison
P.O. Box 426
Oglethorpe Ga 31068

To: Stephen E. Castlen, Clerk
Court of Appeals of Georgia
Suite 501
47 Trinity Avenue
Atlanta, Ga. 30334

Date: April 8th 2014

Re: Davis v. The State Appeal #A14D0237

Dear Mr Stephen, Clerk

Please find enclosed my Supplemental Brief to be filed in the proper order of this honorable court.

Please file the same and stamp file a copy and return upon the above address.

Thank You!

This 8th day of April 2014
Norman Davis
Norman Davis 1043303
Macon State Prison

c.c. DA Decatur County

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

April 22, 2014

To: Mr. Charles Allen, GDC1105887 I-2-239T, Washington State Prison, Post Office Box 206, Davisboro, Georgia 31018

Docket Number: **Style: Charles Allen 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:

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

IN THE COURT OF APPEALS

STATE OF GEORGIA

STATE OF GEORGIA	
	CASE NO:
VS.	2001-CRW-119
CHARLES ALLEN	LOWER COURT NO:
DEFENDANT	

* PUT SUPERIOR CASE NUMBER IN HERE

APPLICATION FOR DISCRETIONARY APPEAL

COMES NOW CHARLES ALLEN, DEFENDANT IN THE SUPERIOR COURT OF WILCOX COUNTY AND APPELLANT HERE IN SEEKS LEAVE TO FILE A DISCRETIONARY APPEAL, AS FOLLOWS:

1. IN THE LOWER COURT, DEFENDANT SUBMITTED A MOTION FOR OUT-OF-TIME APPEAL OF THE ORDER REVOKING THE BALANCE OF HIS PROBATION.

2. THE LOWER COURT, ON MARCH 25TH 2014 DENIED THE MOTION FOR OUT-OF-TIME APPEAL,

3. DEFENDANT POINTS OUT THAT HE WAS NOT ADVISED OF HIS RIGHT OF APPEAL FROM THE ORDER REVOKING HIS PROBATION;

4. DEFENDANT POINTS OUT THAT HE WAS NOT AWARE OF HIS RIGHT OF APPEAL FROM THE ORDER REVOKING HIS PROBATION;

5. DEFENDANT POINTS OUT HE WAS NOT ADVISED ON RECORD HIS RIGHT TO APPEAL;

6. DEFENDANT POINTS OUT DUE PROCESS WAS VIOLATED IN THE PROBATION REVOCATION BUT COULD NOT CHALLENGE NO TRANSCRIPT EXIST;

7. DEFENDANT POINTS OUT HE IS ENTITLED TO OUT-OF-TIME APPEAL SINCE HE WAS NOT INFORMED OF RIGHTS TO APPEAL;

8. DEFENDANT IS ENTITLED TO AN OUT-OF-TIME APPEAL SINCE THE HONORABLE JUDGE CHRISTOPHER HUGHES DID NOT ADVISE ON RECORD HE HAD RIGHT IS THE REASON APPEAL WAS NOT TIMELY FILED;

9. DEFENDANT WAS DENIED ADEQUATE NOTICE IN THE REVOCATION HEARING;

10. DEFENDANT WAS DENIED A DETERMINATION BY AN IMPARTIAL DECISION-MAKER IN THE REVOCATION PROCEEDING;

11. DEFENDANT WAS DENIED THE REQUIRED PRELIMINARY HEARING AND FINAL HEARING IN THE REVOCATION PROCEEDING;

12. THE TRIAL COURT ERRORED IN FAILING TO CONSIDER ALTERNATIVES TO CONFINEMENT IN THE REVOCATION PROCEEDING;

13. THE REVOCATION WAS NOT ESTABLISHED BY A PREPONDERANCE OF EVIDENCE;

14. THE TRIAL COURT BASED THE REVOCATION ON INSUFFICENT AND INCOMPETENT EVIDENCE;

15. THE REVOCATION DOES NOT MEET THE DUE PROCESS REQUIREMENT OF ESTABLISHED LAW;

16. DEFENDANT SIGNED A CONSENT ORDER FOR COMMUNITY SERVICE AND SUSPENED ORDER TO A DETENTION CENTER IF PROBATION WAS VIOLATED AGAIN ON 12.18.12 ADMINSTRATIVE HEARING HELD. DEFENDANT DUE PROCESS RIGHTS WERE VIOLATED BY SENTENCING DEFENDANT TO PRISON INSTEAD OF DETENTION CENTER.

WHEREFORE, HAVING BEEN SHOWN THE COURT THAT THERE IS ARGUABLE MERIT AS TO THE GROUNDS AND THAT THE LOWER COURT'S ORDER WAS ERRONEOUS AND AN ABUSE OF DISCRETION, DEFENDANT PRAYS FOR LEAVE TO APPEAL THE LOWER COURT ORDER.

EXECUTED THIS 7th DAY OF April 2014

Charles Allen

Charles Allen

GDC #1105887

WASHINGTON STATE PRISON

P.O. BOX 206

DANSBORO GA 31018

Kimberly R. Simpson

NOTARY 04/07/14

KIMBERLY R. SIMPSON NOTARY PUBLIC WASHINGTON COUNTY GEORGIA EXPIRES April 16, 2017

DEFENDANT COMES NOW WITH ATTACH EXHIBIT FOR TO SHOW THAT HE WAS NOT GIVEN A PRELIMINARY HEARING OR DETERMINATION BY IMPARTIAL DECISION-MAKER.

DEFENDANT SHOWS THAT HE SHOULD NOT HAVE BEEN PLACE IN PRISON FOR THE VIOLATIONS OF SPECIAL CONDITION OF PROBATION FOR SEX OFFENDER WHEN DEFENDANT WAS ONLY REQUIRE TO REGISTER.

DEFENDANT ESTABLISH HE WAS ABLE TO BE PLACED IN A DETENTION CENTER FOR VIOLATION OF PROBATION. DEFENDANT SHOWS THAT HE ALREADY BEEN SENTENCE TO ONE.

PETITION FOR MODIFICATION / REVOCATION DEPARTMENT OF CORRECTIONS DEFENDANT SHOW THAT ON RECORD THAT HE HAD ADMINSTRATIVE HEARING ON 12·18·12 - DEFENDANT SIGNED A WAIVER TO A CONSENT ORDER FOR 96 HOURS OF COMMUNITY SERVICE AND A SUSPENED ORDER TO THE DETENTION CENTER. DEFENDANT ALSO SHOWS THAT HE WAS VIOLATED FOR SPECIAL CONDITIONS FOR FAILING TO ATTEND SEX OFFENDER TREATMENT AS DIRECTED, VIOLATED ESTABLISH CURFEW ON OR ABOUT 3·28·13 AND IN THE PRESENCE OF MINORS ON OR ABOUT 02·07·13. DEFENDANT WAS NOT GIVEN A PRELIMINARY HEARING ON ANY OF THE VIOLATION. "SEE EXHIBIT A"

DEFENDANT SHOWS THAT HE WAS REVOCATED IN FULL FOR VIOLATIONS OF SPECIAL CONDITION AT INITIAL SENTENCING; BEING IN THE PRESENCE OF MINORS, FAIL TO ATTEND SEX OFFENDER TREATMENT, VIOLATION OF CURFEW ON MAY 20TH 2013. DEFENDANT WAS SUPPOSE TO BE SENT TO DETENTION CENTER. " SEE EXHIBIT B"

DEFENDANT SHOWS THAT HE MEETS CRITERIA FOR PROBATION DETENTION CENTER. DEFENDANT PRESENTS ORDERS FROM THE COURT. "SEE EXHIBIT C" D, E,

DEFENDANT SHOWS THAT HE WAS SENTENCE TO SPECIAL CONDITIONS OF PROBATION TO REGISTER AS SEX OFFENDER BUT BECAUSE OF CONVICTION DATE FOR OFFENSE, DEFENDANT HAS NO RESTRICTION OR

PROXIMITY LIMITS. DEFENDANT WAS ONLY REQUIRE TO REGISTER. "SEE EXHIBIT F, G, H" DEFENDANT ASK THAT HE BE RELEASE FROM CONFINEMENT.

DEFENDANT SHOWS THAT ON 12·18·12 HE SIGNED A CONSENT WAIVER FOR 96 HOURS OF COMMUNITY SERVICE AND A SIGNED SUSPENDED ORDER TO DETENTION CENTER. DEFENDANT SHOWS THAT HE WAS GIVEN COMMUNITY SERVICE. "SEE EXHIBIT I."

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT THESE COPIES OF THE APPLICATION FOR DISCRETIONARY APPEAL HAS BEEN SERVED UPON:

DISTRICT ATTORNEY
DENISE FACHINI
CORDELE JUDICAL CIRCUIT
P.O. BOX 5510
CORDELE GA 31010-5510

CLERK OF SUPERIOR COURT
WANDA F. HAWKINS
CLERK OF COURT
103 NORTH BROAD ST
ABBEVILLE GA 31001

CLERK OF COURT OF APPEAL
334 STATE JUDICIAL BLDG.
ATLANTA GA 30334

BY DEPOSITING IN THE U.S. MAIL WITH FIRST CLASS POSTAGE ATTACHED

THIS 16th DAY OF APRIL 2014

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 3, 2014

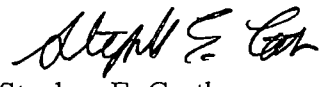
Bentley C. Adams, III, Esq.
Office of the Public Defender
Chattahoochee Judicial Circuit
420 Tenth Street
Columbus, Georgia 31901

RE: Dennis L. Riley v. The State of Georgia
Lower Court Case Number: 13CR013

Dear Mr. Adams:

In response to the Motion for Remand received in this office, we do not have a case styled in the name of Dennis L. Riley pending in this Court.

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

DENNIS L. RILEY,	*	
	*	
Appellant	*	HARRIS COUNTY INDICTMENT
	*	NUMBER 13-CR-013
VS.	*	
	*	NOT YET DOCKETED
THE STATE OF GEORGIA,	*	
	*	
Appellee	*	

MOTION FOR REMAND

NOW COMES the above named appellant, by and through his undersigned attorneys, and hereby shows as follows:

1. After a trial by jury in the Superior Court of Harris County, Appellant was convicted of the offenses of kidnapping, false imprisonment, aggravated assault, possession of a firearm in the commission of a crime and possession of cocaine. Mr. Riley was sentenced to 40 years in prison followed by 20 years on probation. The date of conviction and sentencing was June 28, 2013. A true and accurate copy of the final disposition in the case is attached hereto and made a part hereof as Exhibit "A".
2. Appellant was represented at trial by the undersigned Chattahoochee Judicial Circuit Assistant Public Defender W. John Wilson.

3. On July 12, 2014, Mr. Wilson filed a Notice of Appeal with the Clerk of the Superior Court of Harris County. A true and accurate copy of the Notice of Appeal is attached hereto and made a part hereof as Exhibit "B".
4. Subsequent to the filing of the Notice of Appeal the appellant informed Mr. Wilson that he wishes to assert a claim of ineffective assistance of counsel against Mr. Wilson.
5. Trial counsel is "precluded from presenting a claim of ineffective assistance of counsel concerning a trial in which he participated due to the ethical prohibition of a lawyer acting as a witness." Bacchus v. State, 323 Ga. App. 652, 654, 747 S.E.2d 217, 219 (2013); Castell v. Kemp, 254 Ga. 556, 556-58, 331 S.E.2d 528 (1985).
6. Rule 1.10(a) of the Georgia Rules of Professional Conduct provides that "[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so…". Comment [1] to that rule defines "firm" to include "lawyers in a legal services organization." Comment [3] to that rule provides "Lawyers employed in the same unit of a legal service organization constitute a firm…". The Georgia Supreme Court's recent decision regarding imputed conflicts by public defender offices notes that "[u]nder a plain reading of Rule 1.10(a) and the comments thereto, circuit public

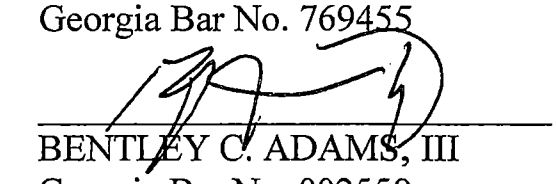
defenders working the circuit public defender office of the same judicial circuit are akin to lawyers working in the same unit of a legal services organization and each judicial circuit public defender's office is a 'firm' as the term is used in the rule." In Re Formal Advisory Opinion 10-1 (No. S10U1679, Decided April 15, 2013.). It will therefore be necessary to secure conflict counsel to pursue Mr. Riley's appeal and his claims of ineffectness of trial counsel.

7. The issue of ineffectiveness of trial counsel may not be raised for the first time on appeal when there was no hearing on the issue below. Harrison v. State, 201 Ga. App. 577, 411 S.E.2d 738 (1991); Berry v. State, 262 Ga. 614, 422 S.E.2d 861 (1992).
8. The trial transcript has been requested but has not yet been prepared.
9. This case has not been docketed in the Georgia Court of Appeals. Therefore, this motion is being hand filed with the Clerk of the Georgia Court of Appeals with a copy thereof being provided to the Clerk of the Superior Court of Harris County and the prosecuting attorney.

WHEREFORE appellant moves this Honorable Court to issue an order remanding this case to the Superior Court of Harris County for the purpose of appointment of conflict appellate counsel and allowing appellant to present his claims of ineffective assistance of trial counsel to the trial court.

RESPECTFULLY SUBMITTED,

W. JOHN WILSON
Georgia Bar No. 769455



BENTLEY C. ADAMS, III
Georgia Bar No. 002550

Attorneys for Appellant

Office of the Public Defender
Chattahoochee Judicial Circuit
420 10th Street
Columbus, Georgia 31901
(706) 653-4301 (Main)
(706) 653-4300 (Fax)

SC-6.2 Final Disposition Felony Sentence With Probation

IN THE SUPERIOR COURT OF HARRIS COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus

DENNIS LOUIS RILEY

CRIMINAL ACTION #:

13-CR-013

MAY Term of 2013

Clerk to complete if incomplete:

OTN(s): _____
DOB: _____
Ga. ID#: _____

FILED IN OPEN COURT
JUN 28 2013
STACY K. HARALSON, CLERK
HARRIS COUNTY SUPERIOR COURT

Final Disposition:
FELONY with PROBATION

First Offender/Conditional Discharge entered under:

☐ O.C.G.A. § 42-8-60 ☐ O.C.G.A. § 16-13-2

☒ Repeat Offender as imposed below

☐ Repeat Offender waived

PLEA: ☐ Negotiated ☐ Non-negotiated

VERDICT: ☒ Jury ☐ Non-jury

The Court enters the following judgment:

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty-Lesser Incl, Nolo, Nol Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
1	KIDNAPPING	GUILTY	20 YEARS SERVE		
2	FALSE IMPRISONMENT	GUILTY	10 YEARS PROBATION		CONCURRENT
3	AGGRAVATED ASSAULT	GUILTY	20 YEARS SERVE		CONSECUTIVE
4	POSSESSION OF FIREARM DURING COMM OF FELONY	GUILTY	5 YEARS PROBATION		CONSECUTIVE

The Defendant is adjudged guilty or sentenced under First Offender/Conditional Discharge for the above-stated offense(s); the Court sentences the Defendant to confinement in such institution as the Commissioner of the State Department of Corrections may direct, with the period of confinement to be computed as provided by law.

Sentence Summary: The Defendant is sentenced for a total of 60 YEARS ☒ with the first 40 YEARS to be served in confinement and the remainder to be served on probation; or ☐ to be served on probation.

The Defendant is to receive credit for time served in custody: ☐ from _____; or ☒ as determined by the custodian.

☐ 1. The above sentence may be served on probation provided the Defendant shall comply with the Conditions of Probation imposed by the Court as part of this sentence.

☒ 2. Upon service of 40 YEARS the remainder of the sentence may be served on probation, PROVIDED, that the Defendant shall comply with the Conditions of Probation imposed by the Court as part of this sentence.

☒ 3. The Court sentences the Defendant as a recidivist under O.C.G.A.:

Exhibit A

□ § 17-10-7(a); ☒ § 17-10-7(c); □ § 16-7-1(b); □ § 16-8-14(b); or □ § _____.

GENERAL CONDITIONS OF PROBATION

The Defendant is subject to arrest for any violation of probation. If probation is revoked, the Court may order incarceration. The Defendant shall comply with the following General Conditions of Probation: 1) Do not violate the criminal laws of any governmental unit and be of general good behavior. 2) Avoid injurious and vicious habits. 3) Avoid persons or places of disreputable or harmful character. 4) Report to the Probation Officer as directed and permit the Probation Officer to visit you at home or elsewhere. 5) Work faithfully at suitable employment insofar as may be possible. 6) Do not change your place of abode, move outside the jurisdiction of the Court, or leave Georgia without permission of the Probation Officer. If permitted to move or travel to another state, you agree to waive extradition from any jurisdiction where you may be found and not contest any effort by any jurisdiction to return you to this State. 7) Support your legal dependents to the best of your ability. 8) When directed, in the discretion of the Probation Officer: (a) submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming; (b) wear a device capable of tracking location by means including electronic surveillance or global positioning satellite systems; (c) complete a residential or nonresidential program for substance abuse or mental health treatment; and/or (d) agree to the imposition of graduated sanctions as defined by law. 9) Make restitution as ordered by the Court.

FINE SURCHARGES or ADD-ONs: The Court assesses all fine surcharges or add-ons as required by the laws of the State of Georgia and as are applicable to offense(s) for which the Defendant has been convicted.

1) The Court orders that: ☒ the Defendant shall pay the probation supervision fee as required by law; or □ the probation supervision fee is waived.
2) If counsel was provided under the Georgia Indigent Defense Act: □ the Defendant shall pay the $50 Public Defender Application Fee; or □ the Public Defender Application Fee is waived.
3) If counsel was provided at public expense: □ the Defendant shall pay attorney's fees of $_____ to _____ County; or □ attorney's fees are waived.
4) The Defendant shall pay the Crime Lab Fee as required by law.

SPECIAL CONDITIONS OF PROBATION

The Defendant is advised that violation of any Special Condition of Probation may subject the Defendant to a revocation of probation and the Court may require the Defendant to serve up to the balance of the sentence in confinement. The Defendant shall comply with all Special Conditions of Probation: □ as designated on the attached Inventory of Special Conditions of Probation; or □ as follows: *(import conditions to be imposed from Inventory of Special Conditions of Probation)*.

FIRST OFFENDER OR CONDITIONAL DISCHARGE

(If designated by the Court)

The Defendant consenting hereto, it is the judgment of the Court that no judgment of guilt be imposed at this time but that further proceedings are deferred and the Defendant is hereby sentenced to confinement at such institution as the Commissioner of the State Department of Corrections or the Court may direct, with the period of confinement to be computed as provided by law.

Upon violation of the terms of probation, upon conviction for another crime during the period of probation, or upon the Court's determination that the Defendant is or was not eligible for sentencing

Upon fulfillment of the terms of this sentence, or upon release of the Defendant by the Court prior to the termination of this sentence, the Defendant shall stand discharged of said offense without court adjudication of guilt and shall be completely exonerated of guilt of said offense charged.

For Court's Use:

The Hon. John Wilson, Attorney at Law, represented the Defendant by:
☐ employment, or ☒ appointment.

SO ORDERED this 28th day of June, 2013.

Judge of Superior Court
Chattahoochee Judicial Circuit

Frank J. Jordan Jr
(print or stamp Judge's name)

FIREARMS – If you are convicted of a crime punishable by imprisonment for a term exceeding one year, or of a misdemeanor crime of domestic violence where you are or were a spouse, intimate partner, parent, or guardian of the victim, or are or were involved in another similar relationship with the victim, it is unlawful for you to possess or purchase a firearm including a rifle, pistol, or revolver, or ammunition, pursuant to federal law under 18 U.S.C. § 922(g)(9) and/or applicable state law.

Acknowledgment: I have read the terms of this sentence or had them read and explained to me. If all or any part of this sentence is probated I certify that I understand the meaning of the order of probation and the conditions of probation. I understand that violation of a special condition of probation could result in revocation of all time remaining on the period of probation.

Defendant

State of Georgia v. Dennis R. Ray
Criminal Action # 13CR 013
SC-6.2 Final Disposition Felony Sentence With Probation
Page 3 of 3

SC-6.5 Final Disposition Continuation of Sentence

NOTE: May be used to continue any final disposition form when needed

IN THE SUPERIOR COURT OF HARRIS COUNTY, STATE OF GEORGIA

FILED IN OPEN COURT

JUN 28 2013

STACY K. HARALSON, CLERK
HARRIS COUNTY SUPERIOR COURT

STATE OF GEORGIA versus

DENNIS LOUIS RILEY

CRIMINAL ACTION #:

13-CR-013

MAY Term of 2013

Final Disposition:
CONTINUATION OF SENTENCE

The Court enters the following judgment:

Count	Charge (as Indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty-Lesser Incl, Nolo, Nol Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
5	KEEPING A PLACE OF PROSTITUTION	NOT GUILTY			
6	PIMPING	NOT GUILTY			
7	PANDERING BY COMPULSION	NOT GUILTY			
8	POSSESSION OF COCAINE	GUILTY	15 YEARS PROBATION		CONSECUTIVE
9	POSSESSION OF FIREARM BY CONVICTED FELON	NOL PROS			
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					

SO ORDERED this 28TH day of JUNE 2013

Frank J. Jordan

Judge of Superior Court
CHATTAHOOCHEE Judicial Circuit

Frank J. Jordan, Jr.
(print or stamp Judge's name)

IN THE SUPERIOR COURT OF HARRIS COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
vs.	)	CASE NO. 13-CR-013
	)	
DENNIS L. RILEY,	)	
	)	
Defendant.	)	
	)	

DEFENDANT'S NOTICE OF APPEAL

Notice is hereby given that DENNIS L. RILEY, defendant named above, hereby appeals to the Georgia Court of Appeals from the judgment of conviction and sentence entered herein on June 28, 2013.

The offenses for which defendant was convicted were one count of kidnaping, one count of false imprisonment, one count of aggravated assault, one count of possession of a firearm in the commission of a crime, and one count of possession of cocaine. The sentence was 40 years in confinement, followed by an additional 20 years on probation. A copy of the sentence is attached as Exhibit A to this notice, and is incorporated herein by reference.

The clerk will please omit nothing from the record. A transcript of the evidence will be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this case on appeal pursuant to Georgia Constitution, Article VI, Section 5, Paragraph 3.

This 12 day of July, 2013.

W. JOHN WILSON
Attorney for Defendant
State Bar Number 769455

420 Tenth Street
Columbus, GA 31906
(706) 653-4301

Exhibit B

CERTIFICATE OF SERVICE

I hereby certify that I have this date caused a true and correct copy of the foregoing to be delivered to opposing counsel by personal delivery or by placing the same in the United States Mail with sufficient postage affixed thereto to insure delivery and addressed to:

JULIA SLATER
District Attorney
Chattahoochee Judicial Circuit
100 10th Street
P. O. Box 1340
Columbus, Georgia 31902

RICHARD MOBLEY
Assistant District Attorney
Chattahoochee Judicial Circuit
Harris County Courthouse, 3rd Floor
102 N. College St.
Hamilton, GA 31811

This 17th day of March, 2014.

BENTLEY C. ADAMS, III
Georgia Bar No. 002550

Office of the Public Defender
Chattahoochee Judicial Circuit
420 10th Street
Columbus, Georgia 31901-2856
(706) 653-4301 (Main)
(706) 653-4300 (Facsimile)

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 22, 2014

Mr. Jeffery Wade Croom, Jr.
2985 Croom-Webb Road
Donalsonville, Georgia 39845

Dear Mr. Croom:

Per my Chief Deputy Clerk, Ms. Patty Bender, the enclosed letter and check number 1044 payable to the Court of Appeals drawn on Amerts Bank were sent to this Court in error and are being returned to you.

Sincerely,

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

SEC/ld
Enclosures

April 17, 2014

To Whom it May Concern:

I am requesting a hearing to appeal the automatic suspension of my driver's license. I need my driver's license for my travel to college as well as my job which requires out of state travel. My arrest was on April 12, 2014. I am being represented by Pataula District Public Defenders Office, Sherry Widner. She can be contacted at 229-308-1239 or 229-758-6236.

Jeffery Wade Croom, Jr.
2985 Croom-Webb Road Donalsonville, GA 39845
Driver's License #: 055328622
Birthdate: 12/05/1992
Telephone #: 229-220-5705

JEFFERY CROOM, JR.
PH. 229-220-5705
~~2802 MOORE HWY. APT# 371~~ 2018 Love Ave, #C2
TIFTON, GA 31793

1044
64-175/612

4-17-14
DATE

PAY TO THE ORDER OF Court of Appeals $ 150.00

One hundred & Fifty & 00/100 DOLLARS

Security Features Details on Back.

Harland Clarke

Ameris Bank

FOR

MP

⑆061201754⑆ 1028445755⑈ 1044

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 23, 2014

Mr. Kevin Gross
Reg. No. 30109-016
Federal Correctional Institution - Fairton
Post Office Box 420
Fairton, New Jersey 08320-0420

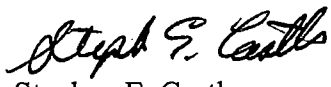
Dear Mr. Gross:

I am in receipt of the Petition for a Writ of Mandamus and your cover letter dated April 15, 2014. As you know, an Application for Writ of Mandamus is filed in the superior court of the county of the public official whose conduct you intend to mandate. An appeal from the trial court's order on the Application for Writ of Mandamus is to the Supreme Court of Georgia, not the Court of Appeals. A mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W. • Suite 572, Atlanta, Georgia 30334.

Your correspondence was addressed to Mr. William L. Martin, III, who retired in 2010.

I am returning your documents to you.

Sincerely,



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

SEC/ld
Enclosures

April 15, 2014

Kevin Gross
Reg. No. 30109-016
Federal Correctional Institution Fairton
Post Office Box 420
Fairton, New Jersey 08320-0420

Mr. William L. Martin, III, Clerk
Georgia Court Of Appeals
47 Trinity Avenue
Atlanta, GA 30334
(404)656-3450

Re: Inquiry about correctness of statue for Writ of Mandamus

Dear Sir:

Will you please send me a copy of the correct way to file a writ of mandamus in your Honorable Court if this petition I've file is incorrect?

Thank you very much for your time and assistance on the above requested matter.

Respectfully submitted,

Kevin Gross 4-15-14

KEVIN GROSS
Pro Se Petitioner

IN THE COURT OF APPEALS
FOR THE STATE OF GEORGIA

STATE OF GEORGIA,	)	
	)	
v.	)	Indictment No. 07SC76141
	)	
KEVIN GROSS,	)	

PETITION FOR A WRIT OF MANDAMUS

COMES NOW, Kevin Gross, pro se petitioner, hereafter Petitioner and prays that this Honorable Court wil issue a Writ Of Mandamus to compel the Superior Court Of Fulton County, Georgia, to respond to Petitioner's Motion to Withdraw guilty Plea that was filed October 12, 2012. See Exhibit A.

BASIS FOR JURISDICTION

The All Writs Act, 28 U.S.C.S. §1651 vests discretionary power in various courts to issue a Writ Of Mandamus in aid of its supervisory contolled of the district (Superior) court in the circumstances of certain cases.

STATEMENT OF FACTS

Petitioner filed a Motion To Withdraw guilty Plea in October of 2012. Said motion was filed in the Superior Court of Georgia, Atlanta Division; close to two years later; Pettitioner has not received a reply to the motion. See Exhibit A (Motion)

NATURE OF RELIEF SOUGHT

Petitioner seeks the issuance of a Writ Of mandamus owing to the fact that the Superior Court has unduly delayed action on

Petitioner's Motion to Withdraw Guilty Plea, and there is no other adequate means to obtained the desired relief; therefore, Petitioner seeks an order from this Court directing the Georgia Superior Court, Atlanta Division to answer Petitioner's motion to withdraw guilty plea.

CONCLUSION

WHEREFORE, in the interest of fundamental fairness, traditional notions of fair play and substantial justice and judicial economy, this Court should issue a writ of mandamus compelling the Respondent to respond to petitioner's motion to withdraw guilty plea in a more timely fashion.

Respectfully submitted,

Kevin Gross 4-15-14

KEVIN GROSS
Pro Se Petitioner
Reg. No. 30109-016
Federal Correctional Institution
Post Office Box 420
Fairton, NJ 08320-0420

In The Superior Court of Fulton County
State of Georgia

State of Georgia
v.
Kevin Gross,
Defendant.

Indictment No. 07SC56141

Motion To Withdraw Guilty Plea

Comes now, Kevin Gross, defendant in the above styled action and respectfully requests this Court with this, his Motion To Withdraw guilty plea entered in this action on September 11, 2012. In Support of his Motion defendant shows this Court the followings.

1.

That defendant was denied effective assistance of Counsel, in that Counsel misinformed defendant as to the sentence he received. Counsel advised defendant that if he pled guilty to Kidnapping of Count 3 to the indictment, that he would be elgible for parole on that Charge. Subsequently defendant has learned that a defendant serving a sentence for Kidnapping are not eligible for parole and must complete the service of his

Sentence.

2.

Trial Counsel refused to show defendant upon requests the video or the photos that was missing or lost and allegedly recovered. Defendant would not have pleaded guilty if he had known that he was not elgible for parole on Count 3 of the indictment for Kidnapping. Which counsel wrongfully informed him that he would be elgible for parole on said sentence.

Wherefore, defendant prays that this Court will set a hearing on the Motion, and that the Motion be granted. And any other or further relief this Court deem proper and Just.

This the 5th day of October 2012.

Respectfully Submitted,

Kevin Gross

Kevin Gross

Certificate of Service

This is to certify that I have this date served the Fulton County District Attorney with a copy of the foregoing Motion to Withdraw Guilty Plea by placing the same in an properly addressed envelope with sufficient postage affixed thereto, depositing in the United States Mail.

This the 5th day of October, 2012.

Kevin Gross

Kevin Gross

Kevin Gross
BK #1211859
Fulton County Jail
901 Rice Street, N.W.
Atlanta, Georgia 30318

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 23, 2014

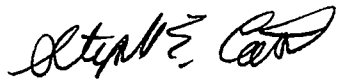
Mr. Thomas R. Galvin
323 Harbor Creek Drive
Canton, Georgia 30115

RE: A14D0319. Thomas R. Galvin v. Susan H. Haley

Dear Mr. Galvin:

I am returning the "Response to Motion to Extend Time to Respond to Discretionary Appeal Application" in the above reference appeal because the Motion for Extension to File Response to Application was returned to the appellee on April 17, 2014.

Sincerely,



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

SEC/ld
Enclosures

IN THE COURT OF APPEALS
STATE OF GEORGIA

Case Number: **A14D0319**

THOMAS R. GALVIN,	)	
	)	*(Originating Court & Case Number)*
Appellant,	)	**Cherokee County Superior Court**
	)	**Civil Action File No.: 13-CV-2572**
	)	
v.	)	
	)	
SUSAN H. HALEY,	)	
	)	
Appellee.	)	

RESPONSE TO MOTION TO EXTEND TIME TO RESPOND TO DISCRETIONARY APPEAL APPLICATION

Appellant, having filed timely Application for Discretionary Appeal, Served Appellee's Counsel in the above-referenced Superior Court action via U.S. Mail the morning of April 07, 2014, and filing a Certificate of Service, files this Response and shows the Court the following:

Appellant filed his Response to Appellees Motion to Dismiss on April 17, 2014. Counsel for Appellee filed a Motion to Withdraw its Motion to Dismiss, while simultaneously filing a Motion to Extend Time to Respond to Discretionary Appeal Application and Motion to Order Service Copy. All of Appellee's motions **(which refer to Appellant's April 17th filing)**, are themselves, dated April 17th !

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

April 24, 2014

Gregory D. Golden, Esq.
Kupperman & Golden
One Securities Centre • Suite 600
3490 Piedmont Road
Atlanta, Georgia 30305

RE: Emergency Motion on Case A14A1515. Warbington v. Bankston
Check Return

Dear Mr. Golden:

We are returning your check #5623 drawn on Fidelity Bank in the amount of $300.00, payable to the Clerk, Court of Appeals of Georgia. There is no charge for an Emergency Motion when it is part of a motion of an already docketed case.

Sincerely,

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

SEC/ld
Enclosure

KUPFERMAN & GOLDEN GENERAL ACCOUNT
3490 PIEDMONT ROAD, SUITE 600
ATLANTA, GA 30305
(404) 460-4500

FIDELITY BANK
Atlanta, GA
www.lionbank.com

5623

64-240/611

PAY TO THE ORDER OF Clerk, Court of Appeals of Georgia

DATE April 24, 2014

Three hundred dollars & no cents

$ 300.00/100

DOLLARS

Security Features Details on Back.

THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNTS

Washington vs. Bankston
filing fee

⑈005623⑈ ⑆061102400⑆ 05 02416 7⑈

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

April 24, 2014

To: Mr. Gary D. Banks, GDC1000974669 E1-216T, Wilcox State Prison, Post Office Box 397, Abbeville, Georgia 31001

Docket Number: **Style:** **Gary David 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. ☑ **Incorrect Certificate of Service accompanied your document(s). 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

IN THE COURT OF APPEALS
STATE OF GEORGIA

GARY DAVID BANKS * CASE NO, 2012-R-0566
*
VS *
*
STATE OF GEORGIA *

DISCRETIONARY APPEAL

COMES NOW GARY DAVID BANKS, DEFENDANT PRO-SE IN THE ABOVE STYLED ACTION, AND MAKES THIS HIS APPEAL FROM A SUPERIOR COURT DECISION, THE DEFENDANT REQUEST'S THIS HONORABLE COURT TO GRANT THE SAID DISCRETIONARY APPEAL, AND WILL SHOW THE FOLLOWING IN SUPPORT.

1.

THE DEFENDANT WENT BEFORE THE SUPERIOR COURT OF FAYETTE COUNTY GEORGIA ON OR ABOUT DECEMBER 12, 2012 FOR THE SAID CHARGE OF THEFT BY TAKING, AND ACCEPTED

A NEGOTIATED PLEA OF 5 YEARS FIRST OFFENDER PROBATION, THE DEFENDANT COMPLIED WITH THE SAID CONDITIONS, UNTIL HE WAS VIOLATED BY OBTAINING A NEW FELONY OFFENSE ON OR ABOUT JUNE 13, 2013, AND HE THEN ACCEPTED A NEGOTIATED PLEA FOR THE OFFENSE OF STATUTORY RAPE, ON SEPTEMBER 4, 2013, THE DEFENDANT WAS SENTENCED TO 10 YEARS TO SERVE 2 YEARS, IN PRISON THE DEFENDANT FURTHER SHOWS THIS COURT HIS FIRST OFFENDER PROBATION WAS REVOKED AND SENTENCED TO 10 YEARS TO SERVE 2 YEARS CONCURRENT WITH THE NEW FELONY OFFENSE,

THE DEFENDANT'S ATTORNEY ADVISED HIM HE WOULD GET THE CREDIT OF 8 MONTHS AND 22 DAYS SERVED ON PROBATION / AND THIS DID NOT HAPPEN, THE DEFENDANT THEN FILED A MOTION FOR TIME CREDIT WITH THE SUPERIOR COURT AND THEY FURTHER DENIED THE SAID MOTION WITHOUT REASON, AND THE DEFENDANT HAS FURTHER FILED A NOTICE OF APPEAL WITH THEM AND NOW SEEKS THE ASSISTANCE OF THE COURT OF APPEALS AND REQUESTS THIS HONORABLE COURT OF APPEALS TO REMAND THE CASE BEFORE IT WITH DIRECTION TO MODIFY THE SENTENCE AND AWARD THE CREDIT SOUGHT.

THE DEFENDANT WILL SHOW THAT, THE (273 GA 858) SENTENCING form Also provideds THAT if probation is REVOKED, THE COURT MAY ORDER THE EXECUTION OF THE SENTENCE WHICH is ORIGINALLY IMPOSED OR ANY PORTION THERE OF A MANNER provided by LAW, AFTER THE DEDUCTION THERE from THE AMOUNT OF TIME THE DEFENDANT HAS SERVED ON probATION "Citing" O.C.G.A § 42-8-38(C) and

McKinney v STATE, 240 GA App. 812, 525 S.E 2d 395 (1999), JOHNS v STATE, 223 GA App 553, 479 S.E 2d 388 (1996), and WEST KEY DIGEST, KEY 2041, SEE 31.6 STATES:
THE DEFENDANT IS ENTITLED TO TIME CREDIT FOR THE TIME SERVED ON probATION, IN CONFINEMENT, EVEN IN THE CASE OF first OFFENDER probATION "Citing"

Anderson v STATE, 660 S.E 2d 876, and,
BEASLEY v STATE, 165 GA App. 160 (259 S.E 2d)

IN ADDITION THIS COURT HAS DETERMINED (273 GA 859) THAT O.C.G.A § 42-8-38(C) Applies TO THE first OFFENDER ACT, IN SO FAR THE TIME SPENT prior TO AN ADJUDICATION OF Guilt, "MUST" BE CREDITED TO Any NEW SENTENCE RECIEVED "STEPHENS v STATE, Supra Accord

In Support The Defendant would further "cite"

Stephens v State, 245 Ga. 835 268 S.E 2d 330 (1980),
Perdue v State, 155 Ga App. 802 272 S.E 2d 766 (1980),
Hillard v State, 156, Ga App 54, 274 S.E 2d 96 (1980)
Howell v State 159, Ga App 577, 284 S.E 2d 82 (1981).

Also, when first offender probation under subdivision (b) is Revoked; Credit "must" be Given For The Time Served on probation see,

Tallant v State, 187 Ga App 591, 263 S.E 2d 477 (1979) "quoting O.C.G.A § 42-8-38 (c) Likewise when first offender probation under § 42-8-60 (b) is Revoked on a punishment of Service of Time which is probated, (Credit must)" be Given For The Time Served on probation, Because The Court Revoking may only proceed as otherwise provided by Law, This in keeping with The words of The Original order, Quoted Above, with The final Judgement see, Dean Supra, 172 Ga. App. at 127 (5), 338 S.E. 2d 711; Bass, Supra v State 172 Ga App. at 551; 323 S.E 2d 853, The Defendant Has a Right to Rely on The Sentencing Documents, which In This Case Conformed To What The Court Stated At The Hearing With Reguard To Crediting probation, Therefore The Defendant

MUST BE CREDITED WITH THE TIME SATISFACTORILY COMPLETED ON PROBATION.

4

THE DEFENDA. (APPELLATE) CONTENDS THAT THE COURT ERRED by failing TO Credit THE PERIOD OF TIME SERVED ON PROBATION prior TO REVOCATION, citing"

HOLMAN V STATE GA App. 280 S.E 2d 891,

5

THE DEFENDANT WILL HEAVILY RELY ON THE following CASES IN SUPPORT.

ENGLAND V MELTON, 238 GA 534, 233 S.E 2d 787 Supra,
MAULDIN V STATE 139 GA App. 13, 227 S.E 2d 862.
INMAN V STATE, 124 GA App. 190 183 S.E 2d 413,'
TAYLOR V STATE 136 GA App. 317, 221 S.E 2d 224',
"ARRIDINE V RICKETTS, 236 GA 283, 223 S.E 2d 627

THIS, THEREFORE THE DEFENDANT WHILE NOT INCARCERATED DURING THE TERM of probation, NEVERTHELESS "SUFFERED" SOME LOSS OF LIBERTY, IN THAT HIS PRIVATE LIFE AND

WERE REGULATED by THE STATE and HE WAS SERVING A TERM ALTHOUGH ON PROBATION, REFER TO INMAN V STATE, 124 GA App. 190, 193.(2) 183 S.E. 2d 413 Supra.,

6.

THE DEFENDANT FURTHER ENCLOSES THE FINAL DISPOSITION Adjudication of Guilty DATED 12TH DAY of December 2012 Signed by THE Honorable Judge Marked (Exibit A), And (Exibit B) (ORDER DENYING MOTION TO RECIND) THAT DEFENDANT DID NOT file A MOTION TO RECIND HE filed A motion for TIME CREDIT.

"Relief Requested"

THE DEFENDANT FURTHER REQUEST THE COURT TO REMAND WITH DIRECTION TO CREDIT THE DEFENDANT WITH 8 MONTHS And 22 DAYS Applied TO HIS SENTENCE HE IS CURRENTLY SERVING OR ANY OTHER RELIEF THE COURT DEEMS JUST And proper,

CERTIFICATE of SERVICE

THIS IS TO HEREby CERTIfy, I HAVE SERVED THE ENCLOSED DOCUMENT, UPON THE PARTIES LISTED by PLACING THEM IN THE U.S MAIL, WITH ADEQUATE POSTAGE AFFIXED for DELIVERY TO THE following BELOW.

COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA GA 30334

RESPECTfully SUBMITTED

THIS 21st DAY of April, 2014

(S) Thomas Banks
GDC# 1000974669
WILCOX STATE PRISON
PO BOX 397
Abbeville GA
31001

(Exhibit A)

IN THE SUPERIOR COURT OF FAYETTE COUNTY

ADJUDICATED GUILTY

FINAL DISPOSITION

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FAYETTE COUNTY, GA

2012 DEC 12 PM 3 21

SHEILA STUDDARD, CLERK

SEPEMBER 2012 Term

CRIMINAL ACTION NO. 2012R- 0566

OFFENSE (S): Ct. 1: Theft by Taking

THE STATE VS

Gary David Banks

OFFENDER TRACKING NUMBER: 88387280870

☒ PLEA:
- ☒ NEGOTIATED
- ☐ NON-NEGOTIATED

☒ GUILTY ON COUNT (S) 1

☐ NOLO CONTENDERE ON COUNT (S) _____

☐ TO LESSER INCLUDED OFFENSE (S) _____

☐ JURY
☐ NON-JURY

☐ VERDICT:
- ☐ GUILTY ON COUNT (S) _____
- ☐ NOT GUILTY ON COUNT(S) _____
- ☐ GUILTY OF INCLUDED OFFENSE (S) OF ON COUNT (S) _____

☐ OTHER DISPOSITION:
- ☐ NOLLE PROSEQUI ORDER ON COUNT (S) _____
- ☐ DEAD DOCKET ORDER ON COUNT (S) _____

****

☒ FELONY SENTENCE ☐ MISDEMEANOR SENTENCE

WHEREAS, the above named defendant has been found guilty of the above stated offense. WHEREUPON, it is ordered and adjudged by the Court that: The said defendant is hereby sentenced to confinement for a period of: _____

In the State Penal System or such other institution as the Commissioner of the Georgia Department of Corrections or Court may direct, to be computed as provided by law. HOWEVER, it is further ordered by the Court:

☐ 1) That the above sentence may be served on Probation.

☐ 2) That upon service of _____ of the above sentence, the remainder of _____ may be served on probation PROVIDED that the said defendant complies with the following general and other conditions herein imposed by the Court as a part of this sentence.

☐ 3) Sentenced under provision of the Probation Options Management Act of 2004 with a cap of Probation Detention Center.

****

FIRST OFFENDER TREATMENT

WHEREAS, said defendant has not previously been convicted of a felony nor availed himself of the provision of the First Offender Act (*Ga. Law 1968, p. 324)*. NOW, THEREFORE, the defendant consenting hereto, it is the judgment of the Court that no judgment of guilt be imposed at this time but that further proceedings are deferred and the defendant is hereby sentenced to confinement for the period of: Ct. 1: 5 Years Probation

In the State Penal System or such other institution as the Commissioner of the Georgia Department of Corrections or Court may direct, to be computed as provided by law. **HOWEVER**, it is further ordered by the Court:

☒ 1) That the above sentence may be served on Probation.

☐ 2) That upon service of _____ of the above sentence, the remainder of _____ may be served on probation PROVIDED that the said defendant complies with the following general and other conditions herein imposed by the Court as a part of this sentence. PROVIDED, further, that upon violation of the terms of probation, the Court may enter an adjudication of guilt and proceed to sentence defendant to the maximum sentence provided by law. Upon fulfillment of the terms of probation, or upon release of them defendant by the Court prior to the termination of the period thereof, the defendant shall stand discharged of said offense charged and shall be completely exonerated of guilt of said offense charged.

☐ 3) Sentenced under provision of the Probation Options Management Act of 2004 with a cap of Probation Detention Center.

Let a copy of this Order be forwarded to the Office of the State Probation System of Georgia, and the Identification Division of the Federal Bureau of Investigation.

****

IT IS FURTHER ORDERED that the defendant pay a Fine in the amount of $ 1500 .00 plus:
$ 50 .00 POPTF $ 150 .00 POPIDF $ 150 .00 JCSA $ 75.00 CVAP $ 50.00 CRIME LAB $ ___ .00 DRUG FEE $ ___ .00 DUI $ ___ .00 BSITF $ ___ .00 DTEF $50.00 IDAF

Restitution in the amount of $ 2800 .00 payable to Bill Garrard 145 E. Georgia Ave., Fayetteville, GA 30214

Probation Fee $32.00 to be paid beginning Upon Release 2012.

The defendant was represented by the Honorable ~~Chris Remig~~ Attorney at Law, FAYETTE County, by (Employment)(Appointment)

IT IS THE FURTHER ORDER of the Court, and the defendant is hereby advised, that the Court may, at any time, revoke any conditions of this probation and/or discharge the defendant from probation. The probationer shall be subject to arrest for violation of any condition of probation herein granted. If such probation is revoked, the Court may order the execution of this sentence which was originally imposed or any portion thereof in the manner provided by the law after deducting therefrom the amount of time the defendant has served on probation.

So ordered this 12th of December, 2012

Judge, Fayette Superior Court

(Exibit B)

FILED IN OFFICE
CLERK OF SUPERIOR COURT
FAYETTE COUNTY, GA.

IN THE SUPERIOR COURT OF FAYETTE COUNTY

STATE OF GEORGIA

2014 MAR 27 AM 11 04

SHEILA STUDDARD, CLERK

STATE OF GEORGIA	*	
	*	
vs.	*	CRIMINAL CASE # 2012R-0566
	*	WFS
GARY D. BANKS,	*	
Defendant	*	

ORDER DENYING MOTION TO RESCIND

WHEREAS, the Court received Defendant's Petition for Time Credit; and,

WHEREAS, the Court has reviewed the clerk's file and received verification from the State's Probation Department that Defendant did received credit for time served in jail; same is hereby DENIED.

SO ORDERED this 26 day of March, 2014.

W. FLETCHER SAMS, JUDGE
FAYETTE SUPERIOR COURT
GRIFFIN JUDICIAL CIRCUIT

The Court of Appeals
Office of the Clerk
47 Trinity Avenue
Suite 501
Atlanta, Georgia 30334

HOLLY K. O. SPARROW
CLERK/COURT ADMINISTRATOR

(404) 656-3450
sparrowh@gaappeals.us

April 26, 2013

Mr. Daniel Eric Cobble
GDC758572
Baldwin State Prison
Post Office Box 218
Hardwick, Georgia 31034

RE: A13D0013. Daniel Eric Cobble v. Stanley Williams, Warden, et al.
A13D0139. Daniel Eric Cobble v. Stanley Williams, Warden, et al.
A13D0279. Daniel Eric Cobble v. Brian Owens, Commissioner, et al.
A13A0415. Daniel Eric Cobble v. Stanley Williams, Warden, et al.
A13A0739. Daniel Eric Cobble v. Clay Tatum, Warden

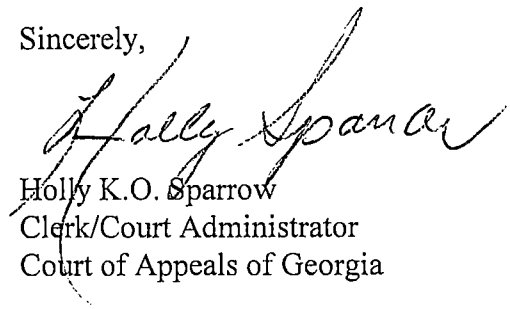
Dear Mr. Cobble:

I am in receipt of your correspondence of postmark date April 19, 2013. I have placed a hold on the applications you have filed in the above cases and the trial court record in the two direct appeals listed above. Once the one year retention period has run for each of these cases, you may request these documents to be made available to you for pick up. We are unable to mail the applications and trial court records to you, but you can authorize a friend or family member to pick up the application or record at our offices.

You asked about a copy of the decision in A13D0279. The Court's order denying your application was mailed to your on April 8, 2013. You should have received it by now.

As to your question concerning the filing of an Extraordinary Motion for New Trial, it must be filed in the form of a Discretionary Application. In most instances, the Court of Appeals would have jurisdiction of an Extraordinary Motion for New Trial in criminal cases. If you file it in this Court and the Supreme Court rather than the Court of Appeals has jurisdiction, the application will be transferred to that Court.

Sincerely,



Holly K.O. Sparrow
Clerk/Court Administrator
Court of Appeals of Georgia

HKOS/ld

To clerk of court of Georgia court of Appeals

from Daniel Cobb 758572
Baldwin State Prison P.O. Box 218
Hardwick, Georgia 31034

today is 4-11-13

(1) Regarding civil # [redacted] A13D0013 and/or direct appeal version of same case too.

You wrote me and said you would keep case on file in your clerk's office for 1 year only, unless I asked for you to keep it longer, before you said you would destroy it!

(A) I ask you, if you gonna to destroy it anyhow, (then why not use me as the trash can?) because I want it! but I'm permanantly indigent, but some papers I filed on case in your court are originals that don't have any copys anywhere, so I need them for future lawsuits.

(B) also on all other suits appeals that have ever been in your court, I want you to use me a garbage dispenser, by given me all these appellant records for free too! but don't destroy them any other way, includes direct appeals and discretionary appeals applications too

(2) Does your local court rules require me to appeal to your court OR to Georgia Supreme, when I appeal a negative Ruler from superior courts on a extraordinary new trial motion from a criminal case?

(3) I never got your first final ruler on civil # A13D0279 at all

please answer soon

by Daniel Eric Cobb
pro se petitioner

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 29, 2014

To: Mr. Franklin L. Bacon, GDC241510 E2-17B, Lee State Prison, 153 Pinewood Road, Leesburg, Georgia 31763

Docket Number: A14A1430 **Style:** Franklin Bacon 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)

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

Court of Appeals of Georgia

Franklin Lamar Bacon — Appeal case no. A14A1430

v. — Dgeechee Judicial Cir. 1B09CR268

State of Georgia

RE: Request for extension of time / Request for Appointment of Conflict Free Attorney / Request for Brady Materials that's been suppressed (83-2026) 1B97CR042 June 22 1999 Extraordinary Motion for New Trial transcripts et Petitioner / Defendant Franklin Lamar Bacon GDC# 241510 moves this Honorable Court for extension of time approximately 120 days to 180 days and that he's assertive that he wants to be 100% percent part of Judicial / Appeal procedures. Petitioner's claim of dissatisfaction with Counsel's performance. Trial appointed attorney Mr. Jack B. Williamson / conflict free appointed appeal attorney Mr. Michael Howard rendered ineffective assistance of counsels for constructive denial of representation.

Trial court Honorable F. Gates Peed (Dgeechee Judicial Cir.) was bias and prejudice to defendant / defendants case 1B09CR268 from the beginning of judicial proceedings.

Honorable F. Gates Peed held a bias grounded in a personal animus or malice Petitioner's Motion for New Trial that was filed Pro se was denied for judicial misconduct of said Judge stating "Petitioner's Timely Notice of Appeal was never filed" Judge statement as well as his conduct was untrue. Petitioners Notice of Appeal was filed June 6th 2010

for judges intentional misconduct Petitioner did not have a

fair trial Motion for New Trial was denied as well as Extraordinary Motion for New Trial that was filed Pro se Petitioner have rights for Motion for New Trial cause timely Notice of appeal was filed June 6th 2010 Petitioners direct appeal have been denied up to this point for Judicial Misconduct.

Constructed/Constructive denial of Representation Trial/Appeal Appointed Attorney's

(1) Case based on Fraudlent Documents In case no 1B97CR268 case no. 1B97CR042 was used for recidivist enhancements it was illegal for it to be used for this specific purpose Hearing for Extraordinary Motion for New Trial (June 22 1999) was never ruled upon as well as in the Magistrate proceedings for this Indictment Judge Woodrow/Judge Turner name is on the documents Judge Turner took case thru Judicial Proceedings Jury Trial Judge Woodrow nor Judge Turner will claim signature on indictment.

(2) Case no 83-2026 was used in 1B09CR268 for Recidivist enhancements case no 83-2026 was dismissed Approximately 1984 Attorney Bobby Hill of Savannah Ga. was employed Attorney case no. 83-2026 Resurfased approx. 1990/1991 Attorney Robert Simmons Lanier JR illegally altered/scratched out Not guilty changed to guilty, scratched out Bobby Hill Attorney at law name/illegally forged his name to Fraudlent Documents

Petitioner have several other grounds of supporting

fact errors for the reversal of the above style case no.

Additionally Petitioner asserts that he is indigent by indigent requirements housed in Georgia Department of Correction Prison system. Therefore moves this Honorable Court to issue order for 6 to 8 hrs law library computer weekly till case is reversed finalized; Approx $37.00 US Postal stamps plus any stamps that's needed weekly to monthly bases due to prison system Federal mail tampering denial of mail Prison Staff opening reviewing legal mail (approx April 2011 Smith State Prison legal documents /disk were illegally confiscated; Approx 5-7-2013 legal documents of above style case numbers of Ogeechee Cir were illegally confiscated and not returned. Jury Trial documents of this specific case no. were confiscated (Research /Direct Appeal errors of all specific constitutional violations. Denial of access to court from March 30 2009 to 2014 intentionally. Petitioner needs order from court for use of copy machine to show proof of all/any issues needed to be revealed; Petitioner need approximately 3 legal pads weekly; approximately 500+ extra sheet of white paper monthly; approx 5 ink pens monthly approx 25 Big Brown env extra monthly; approx 50 small white env. monthly.

Petitioner Seek Conflict free Appointment thru Ms Melissa Hardaway Auditor/Legal Administrator, 104 Marietta Street,

Suite 600, Atlanta Ga. 30303 She have given the only positive assistance of all request made dealing with above style case no.

Petitioner asserts that he wish for Ms Melissa Hardaway to forward his request/complaints to proper authority of Court of Appeals for Good's Just cause for Conflict free Appointment of Counsel Counsel that have NO ties with Ogeechee Judicial Circuit. Appointed Trial/Appeal Attorney have conspired with various public officials to uphold secure defendant's conviction.

Petitioner Request for Clerk of Superior Court Bulloch County to forward a copy of request for Motion for Appointment of Counsel /Counsel Appointment with no ties with Ogeechee Judicial circuit to Public Defenders Office Statesboro Ga.

Petitioner ask for rights to amend this request as needed.

Respectfully Submitted
Franklin Lynear Bacon

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
Date: April 29, 2014

To: Mr. Richard Clark, GDC1060427, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Docket Number: A14A1466 **Style**: Richard Clark 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 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).

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14. ☐ Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)

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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
State of Georgia

Richard Clark,
Appellant,

v.

State of Georgia,
Appellee.

Case No. A14A1466

Brief of Appellant

I.

Statement of Case Below And Statement of Material Facts

This appeal is a direct appeal from the Order denying the out of Time Appeal which order was entered on February 18, 2014. Notice of Appeal pursuant to the grant of the request to appeal this matter was timely filed on February 24, 2014.

This direct appeal having been Docketed on the 10th of April, 2014, stems from the denial of the Appellants Out of Time Appeal in the Superior Court of Muscogee County in which the Appellant appealed the waiver of Indictment; SU-CR-12-1683 due to entering a plea of guilty on June 17, 2013 to the charge of Theft by Taking, Simple Battery, Poss. of Cocaine (2 counts), Poss. of Marijuana (2 counts), Poss. with Intent to Distribute, et al.

Statement of Essential Facts: Appellant entered an involuntary and unintelligent plea of guilty to felonies that were improperly charged then without representation in the Preliminary Hearing phase of this criminal case, the Appellant made statements that were harmful and self incriminating.

Appellant's Constitutional rights were further made to stand silent when his plea of guilty was entered without adequate warning of the plea consequences when counsel's advice was not within the standards.

Jurisdictional Statement

The Georgia Court of Appeals has jurisdiction of this Appeal because the Judgement of Conviction in this case is not one of the matters within the exclusive jurisdiction of the Supreme Court of Georgia. Art. VI, Sect. VI, Paras. II and III.

II. Enumeration of Errors

1. The Appellant entered a plea of guilty to an Indictment and Plea Colloquy that failed to properly charge venue.

2. The Appellant was denied proper representation during every phase of the trial procedure. Trial counsel failed to adequately inform defendant of the elements of the offenses or the consequences of his plea.

III. Argument And Citation Of Authority

1. The Trial Court Erred In Disposing of A Criminal Case When Venue Was Not Proven By The State Beyond Reasonable Doubt.

This issue is preserved for appellate review because an essential element of the crime was not charged or proven beyond a reasonable doubt. Stockard v. State, A13A2176 (3/26/14).

The Indictment in this case sub judice failed to charge a critical material element of the offenses charged. Indictment SU-12-CR-1683 charged counts of felonies that included theft by taking, Simple battery, poss. of cocaine, et. al., yet did not charge one of the first questions to be asked; where did the alleged crime occur? The State failed to present evidence to establish the location of theft by taking, or poss. of cocaine.

The theft by taking (of motor vehicle) is such an issue the appellate courts have held that must be proven beyond reasonable doubt. When a crime is committed in a vehicle traveling within this State, "and it cannot readily be determined in which county the crime was committed, the crime shall be considered as having been committed in any county in which the crime could have been committed through which the ... vehicle ... has traveled." O.C.G.A. § 17-2-2 (e).

In this situation, the evidence did not establish that is was difficult to determine where the

crime was committed, or that the crime could have been committed in more than one county; the State simply failed to present any evidence about counties except that the theft by taking and poss. of cocaine took place in Muscogee County. Jones v. State, 272 Ga 903 (2) S.E.2d. 80 (2000).

The States argument that by entering a plea of guilty the Appellant waived his right to appeal is simply incorrect according to statutory and federal holdings that are specific in ruling that a) the indictment must allege each essential element of the offense charged, if it does not, it fails to charge that offense, and a defect in the indictment is not waived by a guilty plea. U.S. v. Gayle, 967 F.2d. 483 (11th Cir. 1992); Smith v. Hardrick, 266 Ga. 54, 55 (1), 464 S.E.2d. 198 (1995). b) Constitutionally competent counsel must advise their client to all aspects of a guilty plea, for a defendant must know all aspects of the plea agreement. Taylor v. State, 304 Ga. App. 878 (2012); Padilla v. Kentucky, U.S. ___ 130 S.Ct. 1473.

This last issue is the crux of Appellant's enumerated error in contending he was subjected to ineffective assistance of counsel by the trial court and by appointed counsel.

2. The Trial Court Erred In Concluding That The Appellant Was Effectively Represented During All Phases Of His Criminal Case.

This issue is preserved for appellate review

as this issue was argued at the Appellant's earliest opportunity, to wit: Out of Time Appeal. Strickland v. Washington, 466 U.S. 668 (1984).

The Trial Court, in this criminal case, created "plain error" when the defendant was brought forth for a preliminary hearing on May 17, 2012 (See Prelimary Hearing Transcript) without the benefit of counsel though the Appellant requested representation, (P.H.T., Page 3).

The Appellant, though a layman to the law, immediately requested counsel. The trial court proceeded with the hearing when Judge Michael Cielinski decided the Appellant did not qualify for representation from the Public Defenders Office, (P.H.T., Page 5). Appellant informed the trial judge that he would attain legal counsel. At that point the proceedings should stopped, but instead the hearing continued with the Appellant entering pleas of guilty and not guilty to the offenses charged.

The Georgia Court of Appeals has long held that the Sixth Amendment guarantees a defendant to be entitled to effective assistance of counsel at all critical phases of criminal proceedings. Billings v. State, 308 Ga. App. 248, 251, 707 S.E.2d. 117 (2011).

In this situation, the trial court should have re-scheduled the Preliminary Hearing until the defendant attained counsel then proceed in a manner that adequately sustained the defendants Sixth Amendment Rights. Skomer v. State, 183 Ga. App. 308, 358 S.E.2d. 886.

B) The Appellant was further subjected to ineffective assistance when appointed counsel failed to adequately advise the Appellant of all aspects of the plea agreement. McDaniel v. State, 271 Ga. 552 S.E.2d. 648 (1999).

Here, counsel advised the Appellant that pleading guilty would have no effect on his right to appeal, or his ability to withdraw his plea. Wrong on both counts. An affirmative misrepresentation by trial counsel to a guilty pleading defendant about the collateral consequences of the plea constitutes ineffective assistance of counsel. Rollins v. State, 277 Ga. 488, 591 S.E.2d. 796 (2004).

C) The Appellant entered a plea of guilty that was involuntary and unintelligent when he was not made aware of the essential elements of the charges against him and proceeded to enter a plea of guilty at counsel's advice. Hill v. Lockhart, 474 U.S. 52, 56 (88 L.Ed. 2d. 203).

There is a "reasonable probability" that trial counsel, aware his client had no understanding of the law, convinced the Appellant to plea guilty with representation that was shoddy at best.

This enumerated error is supported by the record in the Order denying the Appellants Out-of-Time Appeal, Judge William Rumer states on Page 2 in italics; "Defendant Clark subsequently retained counsel and was represented at the time he entered his plea of guilty." This was the Courts response to the defendant being

denied counsel during Preliminary Hearing. This response demonstrates the trial court's careless and cavalier attitude toward the plea procedure and a defendant's rights.

WHEREFORE, based on the arguments set forth, infra, the record of the case and the Appellant's out of Time Appeal and any other reason which serves the ends of justice, Richard Clark respectfully requests that this Honorable Court grant his motion and vacate his plea of guilty.

Respectfully submitted,

Richard Clark, Pro se

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

To: Richard Clark
Docket Number: A14A1466

Style: Richard Clark 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 crimina *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.

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17. ☐ The Motion to Supplement has not been granted.

18. ☐ Other

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