

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 7, 2014

To: Mr. Maurice Orr, Jr., GDC34998 L105, Jackson County Detention Facility, 555 General Jackson Drive, Jefferson, Georgia 30549

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

Court of Appeals Case Number and Style: _____

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

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

Maurice C. Orr Jr.

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

RECEIVED IN OFFICE
2014 NOV -5 PM 3:08
CLERK/GOVT ADMINISTRATION
COURT OF APPEALS OF GA

R.E. Concerns of File No #W14CV0660; Appeal

Saluteation, fellow Court members, I am writing in concerns of Case Number W14CV0660. The case began with the state bringing forth a complaint for forfeiture, reason stated was a violation of the Georgia Controlled Substance Act. Myself and others [i.e. Timothy Scoenings & Kenneth T. McCall] will filed claims of the said property [i.e. defendants in rem O.C.G.A. 16-13-49(G)(2)] pursuant to O.C.G.A. 16-13-49(N) with the defense in pursuant to O.C.G.A. (E)(4), (A)(B)(D) & (H)(2); claiming that the property was not subject to forfeituring. The honorable Judge W. Meleckin of The Piedmont Judicial Circuit Court of Jackson County set a court date for September 11th, 2014. The State filed on 09/04/2014 a Motion for Continuance, on 09/05/2014 the States motion was granted and a forfeiture hearing was scheduled for 10/09/2014. "The State [BRADLEY SMITH 'D.A.' ex. rel.] v. 2473.00 in U.S. Currency, 5050.00 in U.S. Currency, and \$800.00 in U.S. Currency" [i.e. Vincent Whitstone failed to Claim his 392.00 in U.S. Currency]. On 10/09/2014 A forfeiture hearing was held, the claimants argued against the state, and summary judgment was granted in favor of the state on 10/13/2014 & 10/29/2014 the claimants filed Notices of Appeals stating that the trial court judge made a erroneous decision and requesting of the Superior Court of Jackson County to included a record and transcript upon service of the said Notice.

My concerns is/are my case in the Court of Appeals yet? I am here in the Jackson County jail and I am quite oblivious to how long I must wait to file my Appeal.

Respectfully Submitted Maurice C. Orr Jr.

100-100000-100000
100-100000-100000
100-100000-100000

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 4, 2014

To: Mr. Virgil Lamar Maddox, GDC1000577031 K1-146T, Smith State Prison, PO Box 726, Glennville, Georgia 30427

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

Court of Appeals Case Number and Style: _____

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- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

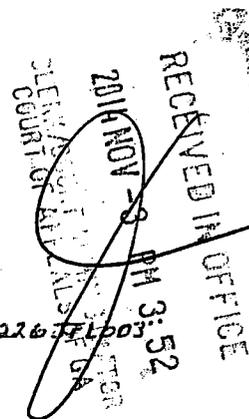
IN THE COURT OF APPEALS
FOR THE STATE OF GEORGIA

THE STATE OF GEORGIA
PLAINTIFF

VS.

CRIMINAL CASE NO: 11CRO0226 TEL 003

VIRGIL LAMAR MADDOX
DEFENDANT



NOTICE OF APPEAL

COMES NOW THE DEFENDANT, VIRGIL LAMAR MADDOX TO ENTER THIS APPEAL OF THE OCTOBER 08, 2014 ORDER BY THE SUPERIOR COURT FOR THE COUNTY OF FLOYD STATE OF GEORGIA DENYING THE DEFENDANT'S MOTION TO VACATE SENTENCE AMENDMENT SUBMITTED ON SEPTEMBER 20, 2014.

ON MARCH 27, 2012 THE SUPERIOR COURT FOR FLOYD COUNTY, GEORGIA AMENDED THE JUNE 09, 2011 PLEA AGREEMENT BETWEEN THE STATE OF GEORGIA AND COUNSEL TO ADD LIMITATIONS RESTRICTING CONTACT AND COMMUNICATION WITH THE DEFENDANT, BETWEEN HIMSELF AND HIS CHILDREN.

THE DEFENDANT WAS PROPERLY NOTIFIED ON JANUARY 23, 2012 THAT COUNSEL, MR RANDALL WILLIAMS AND HIS OFFICE NO LONGER REPRESENTED THE DEFENDANT IN HIS CRIMINAL CASE, MR. WILLIAMS REPRESENTATION OFFICIALLY CEASED AS OF JANUARY 23, 2012, SEE CASE FILE FOR SUPPORT, PHILLIPS VS. THE STATE, 238 Ga. 494, 233 S.E. 2d. 758, THAT STATES, YOUR ATTORNEY MUST WITHDRAW IN WRITING TO BE REMOVED AS COUNSEL IN YOUR CASE, MR. RANDALL WILLIAMS DID DO SO, HE PUT IT IN WRITING, TO THE STATE BAR OF GEORGIA AND THE DEFENDANT. THE DEFENDANT WAS NOTIFIED ON FEBRUARY 13, 2012, THAT THE STATE OF GEORGIA, BY AND THROUGH COUNSEL [MR. WILLIAMS] FILED A MOTION TO AMEND THE DEFENDANT'S PLEA AGREEMENT CONTRACT. IN WHICH THAT ALONE IS A VIOLATION THAT COUNSEL [MR. WILLIAMS] IS GOING AGAINST THE DEFENDANT, SEE D.C.G.A. § 17-7-93.

THEN ON MARCH 27, 2012 COUNSEL, MR. WILLIAMS PROPERLY NOTIFIED THE JUDGE IN A "SIDE BAR" THAT HE NO LONGER REPRESENTS THE DEFENDANT. THE COURT ALLOWED MR. WILLIAMS TO SIGN THE ORDER TO AMEND AS "ATTORNEY FOR DEFENDANT," WHILE THE COURT WAS FULLY AWARE THAT COUNSEL MR. WILLIAMS DID NOT REPRESENT THE DEFENDANT, AND THAT THE DEFENDANT DID OBJECTED TO THE COURT FOR LETTING MR. WILLIAMS SIGN SAID ORDER. MR. WILLIAMS AND HIS OFFICE NO LONGER REPRESENTED THE DEFENDANT AT THAT TIME. THE GEORGIA CONSTITUTION UNDER RIGHT TO COURTS STATES "... NO PERSON SHALL BE DEPRIVED OF THE RIGHT TO PROSECUTE OR DEFEND EITHER IN PERSON OR BY ATTORNEY THAT PERSON'S OWN CAUSE IN ANY OF THE COURTS OF THIS STATE. "

THE DEFENDANT WAS DENIED HIS RIGHT OF ACCESS TO THE COURT FOR PLEADING HIS CASE ON MARCH 27, 2012, BY HAVING HIS RIGHT OF BEING REPRESENTED BY COUNSEL FOR THE PURPOSE OF THE HEARING. THIS GOES AGAINST THE DEFENDANT'S SIXTH AMENDMENT "RIGHT WHICH SECURES A DEFENDANT WHO FACES INCARCERATION THE RIGHT TO COUNSEL AT ALL CRITICAL STAGES" OF THE CRIMINAL PROCESS, SEE CASE FILE FOR SUPPORT, UNITED STATES VS. WADE, 388 U.S. 218, 224, 87 S. C. T. 1926 18 L.E.D 2d. 1149 [1967].

"A PLEA AGREEMENT HAS LONG BEEN ACCEPTED AS A CONTRACT BETWEEN THE DEFENDANT AND THE STATE OF GEORGIA, WHERE FOR CONCESSIONS GIVEN BY THE STATE OF GEORGIA. THE DEFENDANT PLEAD GUILTY TO SAVE THE STATE OF GEORGIA THE BURDEN OF A TRIAL. THEREFORE, AS WITH ANY CONTRACT ANY CHANGE IN THE TERMS OF THE CONTRACT MUST BE PRESENTED TO AND AGREED UPON BY ALL OR BOTH PARTIES AND THEIR REPRESENTATIVES."

SINCE MR. GARY RANDALL WILLIAMS, BY HIS OWN ADMISSION NO LONGER REPRESENTED THE DEFENDANT, HE HAD NO LEGAL AUTHORITY TO SIGN FOR THE DEFENDANT AS "ATTORNEY FOR DEFENDANT", SEE CASE FILE FOR SUPPORT, ARCHER VS. CLARK, 202 GA. 229, 42 S.E. 2d. 924 [1947] O.C.G.A § 17-12-22, DENIAL BY DEFENDANT THAT COUNSEL HAD AUTHORITY TO ACT ON HIS BEHALF

THEREFORE, THE MARCH 27, 2012 AMENDMENT TO THE DEFENDANT'S SENTENCE IS ILLEGAL AND HAS BEEN BREACHED AND MUST BE VACATED, SEE CASE FILE FOR SUPPORT, U.S. VS. BELT, 89 Fed. 710 712 [10TH CIR. 1996] AND O.C.G.A § 9-11-60 [G] AND O.C.G.A § 17-21-1 AND O.C.G.A § 16-10-70 [A][B].

SUMMATION

SINCE, THE MARCH 27, 2012 AMENDMENT WAS NOT PRESENTED TO EITHER THE DEFENDANT OR TO AN AUTHORIZED REPRESENTATIVE OF THE DEFENDANT, IT IS ILLEGAL AND MUST BE VACATED UNDER RULES OF THE RIGHT TO COURT AS OUTLINED IN THE GEORGIA CONSTITUTION.

THE SUPERIOR COURT FOR FLOYD COUNTY IS IN ERROR IN REFUSING TO GRANT THE DEFENDANT'S MOTION TO VACATE SENTENCE AMENDMENT.

FOR THE REASONS HEREIN THE DEFENDANT ASKS THAT THIS COURT REVERSE THE RULING OF DENIAL BY THE SUPERIOR COURT FOR FLOYD COUNTY.

RESPECTFULLY SUBMITTED, THIS _____ DAY FOR _____, 2014.

VIRGIL LAMAR MADDOX DEFENDANT PRO-SE
G.O.C.# 1000517031
K-1/146T
SMITH STATE PRISON
POST OFFICE BOX 726
GLENNVILLE, GEORGIA 30427

IN THE SUPERIOR COURT FOR THE COUNTY OF FLOYD
STATE OF GEORGIA

3.

VIRGIL LAMAR MADDOX
PLAINTIFF

VS.

CRIMINAL ACTION

FILE NO: 11C00226JFLO03

THE STATE OF GEORGIA
DEFENDANT

MOTION TO VACATE SENTENCE AMENDMENT

COMES NOW THE PLAINTIFF, LAMAR MADDOX TO ASK THAT THE COURT VACATE THE MOTION OF MARCH 27, 2012 WHICH RESTRICTS THE PLAINTIFF FROM HAVING ANY CONTACT WITH HIS CHILDREN BRITTANY J. MADDOX AND JOSHUA D. MADDOX.

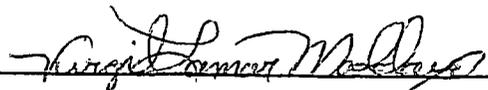
THIS ORDER WAS PRESENTED TO, AND SIGNED BY MR. RANDALL WILLIAMS AS ATTORNEY FOR THE DEFENDANT. HOWEVER, AS SHOWN BY THE ACCOMPANYING DOCUMENTATION, MR. RANDALL WILLIAMS DID NOT REPRESENT THE PLAINTIFF AT THAT TIME [HIS REPRESENTATION CEASED ON JANUARY 23, 2012] THEREFORE, HE COULD NOT LEGALLY SIGN AS ATTORNEY FOR THE DEFENDANT ON MARCH 27, 2012.

THEREFORE, THE COURT HAS NO CHOICE BUT TO VACATE AND VOID THE ORDER BASED ON THE MOTION OF MARCH 27, 2012.

SINCE, IT WAS NOT PRESENTED TO EITHER THE PLAINTIFF OR TO LEGAL COUNSEL REPRESENTING HIS INTEREST.

IF THE COURT WISHES TO ISSUE A NEW ORDER FOR RESTRICTING IT MUST PRESENT SUCH ORDER TO EITHER THE PLAINTIFF, HIMSELF, IN A PROSE CAPACITY OR APPOINT HIM A NEW ATTORNEY TO REPRESENT HIS INTEREST BEFORE THE COURT.

RESPECTFULLY SUBMITTED, THIS 20TH DAY OF September, 2014, WITH DOCUMENTATION ATTACHED HERETO.



VIRGIL LAMAR MADDOX - PRO-SE

G.D.C.# 1000577031

K-1/146T

SMITH STATE PRISON

POST OFFICE BOX 726

GLENNVILLE, GEORGIA 30427

Copy

4.

IN THE SUPERIOR COURT FOR THE COUNTY OF FLOYD
STATE OF GEORGIA

VIRGIL LAMAR MADDOX
PLAINTIFF - PROSE

VS.

THE STATE OF GEORGIA
DEFENDANT

CRIMINAL ACTION

FILE NO: 11CR00226-JFL003

* CERTIFICATE OF SERVICE *

THIS IS TO CERTIFY THAT THE PLAINTIFF HAS THIS DAY SERVED A TRUE AND CORRECT COPY OF THE FOREGOING DOCUMENT [S] AND EVIDENCE, UPON THE ABOVE LISTED PERSON(S), BY DEPOSITING A COPY OF SAME IN THE UNITED STATES MAIL, IN A PROPERLY ADDRESSED ENVELOPE WITH ADEQUATE POSTAGE FROM SMITH STATE PRISON, THEREON TO ENSURE IT REACHES ITS DESTINATION. RESPECTFULLY SUBMITTED, THIS 20TH DAY OF September, 2014 WITH DOCUMENT AND EVIDENCE TO SUPPORT THE MOTION TO VACATE SENTENCE AMENDMENT.

PERSON SERVED:

MRS. LEIGH E. PATTERSON
OFFICE OF THE DISTRICT ATTORNEY
ROME JUDICIAL CIRCUIT
FLOYD COUNTY COURTHOUSE
3 GOVERNMENT PLAZA SUITE 108
ROME, GEORGIA 30161
AND
ATTORNEY GENERAL
GEORGIA DEPARTMENT OF LAW
40 CAPITOL SQUARE S.W.
ATLANTA, GEORGIA 30334

Virgil Lamar Maddox
THE PLAINTIFF - PROSE
VIRGIL LAMAR MADDOX
G.D.C.# 1000577031
K11146T
SMITH STATE PRISON
POST OFFICE BOX 726
GLENNVILLE, GEORGIA 30427

IN THE SUPERIOR COURT FOR THE COUNTY OF FLOYD

FILED IN OFFICE

STATE OF GEORGIA

STATE OF GEORGIA,)
)
)
VS.)
)
VIRGIL LAMAR MADDOX,)
DEFENDANT.)

OCT 09 2014
Karen Warner
CLERK

CRIMINAL ACTION
FILE NO. 11CR00226-JFL003

SCANNED

ORDER

The defendant having filed a pro-se motion to vacate sentence amendment and motion for permission to write letters to his children, the Court entered said amended order to the defendant's sentence on March 27, 2012 wherein he was restrained from ANY CONTACT with Melissa Maddox, Brittany Maddox and Joshua Maddox.

The Court having reviewed the motion to vacate amended sentence and same is DENIED. The motion for permission to write letters to his children is therefore MOOT as the Court is not vacating the amended order allowing no contact.

This 8 day of Oct, 2014.



JUDGE J. BRYANT DURHAM, JR.
FLOYD SUPERIOR COURT
ROME JUDICIAL CIRCUIT



SUPREME COURT of GEORGIA
CLERK'S OFFICE
244 Washington Street, Room 572
Atlanta, Georgia 30334

NAME: Virgil Maddox
DATE: January 13, 2014

CASE NO. S14A0592

Thank you for sending us your change of address. We have updated our records accordingly.

I am sorry that I can not help you with the answers to your questions. Employees of this Court may not give legal advice to litigants.

This Court is unable to supply copies without charge. If you will remit the cost of copying, we will send you the documents you requested. The charge for these documents is \$ 5.00.

A pauper's affidavit cannot be accepted in lieu of payment for copying charges. Pauper's affidavits can only be used for costs for filing an appeal or an application for appeal.

Filing of a pauper's affidavit requires a finding by the trial court judge of pauper status and entry of an order so stating. This is not automatic with the filing of your affidavit.

Neither this Court nor any other court in this state is subject to the open records act.

The Court has directed me to notify you that this Court does not issue orders regarding oral arguments. It is up to you to arrange your own permission to attend and your own transportation to the Court. A calendar will be sent to you at least twenty days before the argument date.

This Court does not have oral argument for applications for certificate of probable cause. If your application is granted, you may then request oral argument

As long as you are represented by counsel, we are unable to accept a filing from you. Phillips v. The State, 238 Ga. 497, 233 S.E.2d 758. Your attorney must withdraw in writing to be removed as counsel in your case.

Appointment of counsel is a matter that should be addressed to the trial court.

As a pro se appellant you may file only the number of copies you are able to provide.

The record and transcript from the habeas trial court were received by this Court on _____ and your application is under consideration. This office is unable to tell you when there will be a decision from the Court, but when there is one, you will be mailed a copy immediately.

The record and transcript from the habeas trial court have not been received by this Court. This office is unable to tell you when the trial court will send these documents or when there will be a decision from this Court.

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

VIRGIL LAMAR MADDOX,
PETITIONER,

VS.

CIVIL NO. 11CR00226 JFL003

STATE OF GEORGIA
RESPONDENT,

AFFIDAVIT OF POVERTY

VIRGIL L. MADDOX, being first duly sworn, identifies himself as the Petitioner in the above-styled action and states upon his oath that he is an indigent state prisoner and that on account of this poverty cannot pay the fees and costs normally required to file and proceed in an action of this nature.

He executes this oath in order that he may proceed in forma pauperis.

Virgil Lamar Maddox
Petitioner Pro Se
G.D.# 1000577031
P.O. BOX 726
GLENNVILLE GA 30427

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

NOTARY PUBLIC
(My commission expires: _____.)

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the foregoing document(s) upon the below listed person(s), by depositing a copy of same in the United States Mail, in a properly addressed envelope with adequate postage thereon to ensure it reaches its destination.

This 23RD day of October, 20 14.

Is/ *Virgil Lamar Wood*
Is/ _____

PERSON(S) SERVED:

*LEIGH E. PATTERSON
OFFICE OF THE DISTRICT ATTORNEY
ROME JUDICIAL CIRCUIT
FLOYD COUNTY COURTHOUSE
3 GOVERNMENT PLAZA - SUITE 108
ROME, GEORGIA 30161*

AND

*COURT OF APPEALS OF GEORGIA
433 STATE JUDICIAL BLDG.
ATLANTA, GEORGIA 30334*

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

November 4, 2014

Mr. John McCormack
GDC1197165 K1-126-B
Wilcox State Prison
PO Box 397
Abbeville, Georgia 31001

RE: A13A1251. John McCormack v. The State

Dear Mr. McCormack:

Your appeal was disposed by opinion on October 25, 2013. The opinion contains 9 pages. A copy of the opinion will cost \$13.50. The Court of Appeals affirmed the judgment of the trial court in the above referenced appeal. The remittitur issued on December 23, 2013.

In accordance to the Court's Record Retention Schedule, the record will not be available until **after** December 23, 2014. If you would like to pick up the records, you will have to come to the Court or make arrangements to have someone (a family member or friend) come for you to retrieve the documents. The Court requires advance notice of a record pick up. Please ask whomever you send to phone the Court at 404-657-8360 to make arrangements for the pick up.

Thank you for your attention to this matter.

Sincerely,



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

SEC/ld

10-17-14

RECEIVED IN OFFICE

2014 NOV -3 PH 3:56

CLERK/COURT CLERK STRATEGIC
COURT OF APPEALS OF GA

Dear Court of Appeals!
I would like all case records and transcripts of case # A13A151 John McCormack v THE STATE.

My case has been through a process I haven't understood well, going prose. I didn't realize I could have had an appeal lawyer when I wrote to you in 2013. My ignorance has been an awakening. My case wasn't looked at at the Habeas Corpus level, because I was procedurally barred. I am now in the Georgia Supreme Court and I need a further review of my case so I won't miss any thing that could possibly give me relief.

There is, and has been a miscarriage of justice, because the Public Defender appeals lawyer did not raise up similar transactions and compulsory process and no expert witnesses in my case. Send them as quickly as possible

THANKS
John McCormack

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 7, 2014

To: Ms. Christina McLemore, GDC963373, Whitworth Women's Facility, Post Office Box 769, Hartwell, Georgia 30643

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

Court of Appeals Case Number and Style: _____

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- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing. The Court of Appeals of Georgia is not the opposing counsel.
- 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.
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Criminal Action #s
13-CR-128
13-CR-160
13-CR-58

State of Georgia
v/s
Christina Melmore

Certificate of Service

This document is to certify that on the 27th day of October, the following documents were sent

Appeal to the Court of Appeal of Georgia, Brief
Statement from defendant, motion to modify sentence,
letter of denial, sentencing statements, final disposition,
paper appeal affidavit, approval of poverty affidavit and
this certificate of service.
To be sent to the following by first class mail;

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

Office of District Attorney
Middle Judicial Circuit
200 Courthouse Square, Suite 1
Lyons, GA 30436

Signed this 27th day of October 2014

Christina Melmore
Christina Melmore
CID # 9103373
Unit with women's facility
P.O. Box 7109
Hastings, GA 30438

Suorin to and affirmed by James Barber on the
27th day of October 2014
notary public
James Barber
GA Notary Public
Exp. 12/5/17

State of Georgia
v/s
Christina Memmore

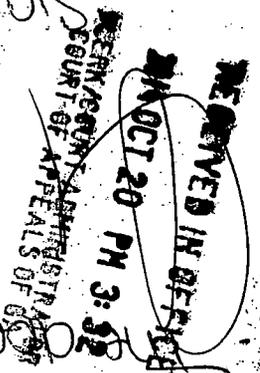
Certificate of Service

This document is to certify that on 14th day of July, I sent the following documents

Appeal to Appeals Court of Georgia, Brief statement from defendant, motion to modify sentence, letter of denial, sentencing state ments, final depositions, Papuper affidavit, Approval of poverty affidavit, and this certificate of service.

To the Court of Appeals of Georgia by First Class mail.

Documents are to go to the following
Clerk, Court of Appeals of Georgia
334 State Judicial Building
10 Mitchell Street
Atlanta Georgia 30334



Signed on this 14th day of October 2014

signature Christina Memmore

Christina Memmore
CID# 963373
Unit with women's facility
P.O. Box 769
Hartwell, GA 30443



Sworn to and affirmed before me, _____ day of October 2014.
Jan Bailey
Notary Public
My commission expires 2/5/17

- Criminal Action #s
13-CR-128
13-CR-160
13-CR-58

Court of Appeals of Georgia

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State of Georgia
Vs

Christina McLemore

CLERK/REGISTRAR
COURT OF APPEALS OF GA

Criminal

Action Numbers 13-CR-128
13-CR-160
13-CR-58

Notice is hereby given that Christina McLemore, defendant/appellant, hereby appeals to the Court of Appeals of Georgia from the decision entered on the 8th day of September 2014 on the motion to modify sentence imposed by the Superior Court of Toombs County Georgia.

The offenses for which the defendant was convicted of on November 21st 2014 are as follows.

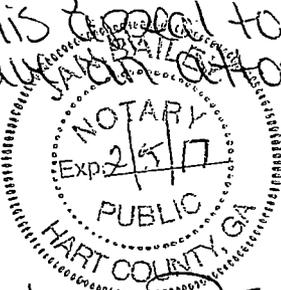
- 13-CR-58 1st Degree Burglary 20 serve 8 years 12 probated
- 13-CR-128 Possession of methamphetamine 15 serve 8 years without parole
- 13-CR-160 Financial Card Theft/Fraud Total of 4 years without parole

Motion to Modify Sentence was filed on the 25th day of July 2014 in Toombs County for all offenses, Emanuel County Jurisdiction was waived. Motion was denied on the 8th day of September 2014

Enclosed is a brief statement of the defendant, motion to modify, letter of denial, Sentencing statements, Final depositions, Approval of Affidavits of poverty, Appeal, Certificate of service, and paper affidavit.

Please Consider that I, the defendant am incarcerated and indigent. The facility which I am housed are assisting with this appeal to the best of their knowledge and ability. I do not have an attorney to assist me with this process. Thank you.

Appellant Christina McLemore
Defendant
Prise
GD#963373
Whitworth Womens Facility
P.O. Box 769
Hartwell, GA 30643



Notary Jen Bailey
my commission expires 2/5/17

State of Georgia
V/S
Christina McLemore

(1) Criminal Action #'s 13-CR-160
13-CR-128
13-CR-58

Comes now the defendant Christina McLemore to appeal the decision of the Superior Court of Toombs County Georgia ordered on the 8th day of September 2014,

The defendant wishes to appeal for the following enumerations of errors. (1) Ineffective Assistance of Council (2) Entering a plea under duress (3) 17-10-2 (a) State's failure to notify defendant of its intention to seek repeat offender punishment.

1-) Ineffective Assistance of Council - On November 18th 2013 I was scheduled for sentencing in Toombs County Georgia on the offenses in this appeal. The public Defender that represented me had worked out a wrap offer with the District Attorney for a sentence of 20 serve 10 years total all charges were to run concurrent. On CR-160 I waived indictment and was to plea out on the accu station, I waived jurisdiction on the 13 CR 58 for Emanuel County, so I could plea out in Toombs County for all charges. However the necessary paperwork was not present at the time for the Emanuel County case therefore I was rescheduled for sentencing on November 21st 2013. Upon entering the courts on the 21st day of November 2013, prepared to enter a plea of guilty for the sentence previously discussed of 20 years serve 10 for all offenses, but to my surprise the attorney that was representing me comes to me and tells that the District Attorney had changed the plea to 20 years serve 8 without parole, and that if I did not accept this plea I would go to trial receive 35 years for just the possession charge and all other sentences would run consecutive.

I was represented by a court appointed attorney, and would not have normally accepted a plea to this extreme had I not been told it was in my best interest.

2-) Entering a plea under duress - On November 21st 2013, I was prepared mentally for the sentence already agreed on, to accept the plea, I was not prepared for what was presented to me less than an hour before sentencing. Although sentencing documents state that the plea was voluntary, I say it was involuntarily reached. I did not affirmatively

desire to plea guilty and accept a plea to a sentence of 20 years' serve 8 without parole, rather I felt compelled to do so out of fear of the far greater sentence that I was informed I would receive if I did not accept it. The improper influence of the officials of Authority; in fact caused the plea of guilty, not of my own voluntariness.

3-) OCGA 17-10-2(a) - state must meet the "clear notice" Requirement, producing a "Notice of the States intention to seek Punishment of the defendant as a repeat offender".

The purpose of this statute is to give the defendant time to examine the records or evidence to determine if in fact it can be used against him or her.

Richardson vs State 256 Ga. App. 30 states as follows "In order to obtain a recidivist sentence under OCGA 17-10-7 the state must give the defendant "clear notice" before trial of its intention to seek such a sentence."

Only after requesting the final disposition documents pertaining to my sentencing did I realize that I was sentenced under the repeat offender statute OCGA 17-10-7(c).

As you can see on Sworn Statement of Defendant form signed by myself on November 21st 2013 that the statute is written off to the right side, afterwards, at the time of my signature this was not present, and only since my incarceration at the Department of Corrections did I learn what the meaning of this statute was.

I ask that the Court of appeals please examine this information, and grant the appeal that is being requested. I am not saying I was wrongly convicted nor have I denied my guilt, because in my active addiction I committed these offenses, however I am asking that I be given the same treatment of the courts that one may be given had a paid attorney ~~represented~~ represented. I was not informed anything about a Recidivist Statute at sentencing, only after, where is the justice in that. Hope you will find in my favor and grant me the relief

I am requesting. I thank you for your time and consideration.

Respectfully submitted.

Signed.

~~Christina Mc Lemore~~
Christina Mc Lemore
GPOC# 9163373
Whitworth Womens Facility
P.O. Box 7169
Hartwell, Georgia 30643

Jan Bailey



TABLE OF EXHIBITS

- Exhibit A - 13-CR-58 Sentencing final Deposition
- Exhibit B - 13-CR-58 Statement of Defendant
- Exhibit C - 13-CR-128 Sentencing final Deposition
- Exhibit D - 13-CR-128 Statement of Defendant
- Exhibit E - 13-CR-160 Sentencing final Deposition
- Exhibit F - 13-CR-160 Statement of Defendant
- Exhibit G - Approved Affidavit of Poverty
- Exhibit H - Paper Affidavit
- Exhibit I - Decision made on Sept 8th 2014
- Exhibit J - Motion to modify

IN THE SUPERIOR COURT OF EMANUEL COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus

CHRISTINA MCLEMORE

CRIMINAL ACTION #:

13-CR-58

Clerk to complete if incomplete:

OTN(s): 88389625365

DOB: 07/30/1977

Ga. ID# _____

FILED IN OFFICE

C. DEB. [Signature]
DEPUTY CLERK OF COURT
EMANUEL COUNTY, GA

August Term of 2013

Final Disposition:
FELONY with PROBATION

First Offender/Conditional Discharge entered under:

PLEA:

VERDICT:

O.C.G.A. § 42-8-60 O.C.G.A. § 16-13-2

Negotiated Non-negotiated

Jury Non-jury

Repeat Offender as imposed below

Repeat Offender waived

The Court enters the following judgment:

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty-Lesser Incl, Nolo Nolo Pros, Dead Docket)	Sentence	Fine	Concurrent/ Consecutive, Merged, Suspended
1	Burglary 1st Degree	Guilty	20 YRS, SV 8 PB 12		Concurrent
2					
3					
4					

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 TWENTY (20) YEARS, with the first EIGHT (8) 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 10/02/13; 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 EIGHT (8) 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.:

§ 17-10-7(a); § 17-10-7(c); § 16-7-1(b); § 16-8-14(b); or § _____

Exhibit A

GEORGIA, Superior Court of Emmanuel County

Case No. 13-CR-58

STATE OF GEORGIA

Offense(s): Art. 1: Burglary
in the 1st degree

VS.

Christina McLeMore, Defendant
Offender Tracking Number (OTN): _____

SWORN STATEMENT OF DEFENDANT

The Defendant, having been sworn, states the following to the Court: (indicate Yes or No for each statement)

1. Yes I understand that I am charged with the offense(s) listed above.
2. Yes I understand that a conviction of these charge(s) could result in my imprisonment from 1 to 20 years.
3. Yes I understand that I have a right to a trial by a jury, and I hereby expressly waive that right.
4. Yes I understand that I am presumed to be innocent of the charge(s) and that the State has to prove that I am guilty.
5. Yes I understand that I have a right to confront the witnesses against me.
6. Yes I understand that I have a right to testify in this case if I want to, but I could not otherwise be forced to testify or to incriminate myself in any way.
7. Yes I understand that I can subpoena witnesses to testify on my behalf.
8. Yes I understand that I can present any other relevant evidence in my case.
9. Yes I understand that if I exercised my right to a trial by jury, I have a right to be assisted by a lawyer at that trial.
10. Yes I understand that if I were to plead not guilty; or, if I remained silent and entered no plea at all, then I would automatically receive a jury trial.
11. Yes I understand that the District Attorney has agreed to make a recommendation to the Court as to what sentence to impose in return for my plea of guilty.
12. Yes I understand that if I plead guilty to the charge(s), the District Attorney will recommend as punishment:
 Fine hrs Community Service PPS PDC PSATC Drug Conditions Sex Offender
8 yrs to serve without parole with 12 yrs on probation
concurrent with any other sentence
- I understand that restitution in the amount of \$ 2,220.00 will be ordered by the Court pursuant to O.C.G.A. § 17-14-10. I agree to this amount and further state that I have or will have the financial ability to pay according to the terms of the restitution order.
13. Yes I understand that the Court does not have to accept the 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 that I held before entering my plea.
14. Yes With all of the foregoing in mind, I waive my right to a jury trial and hereby voluntarily plead:
 Guilty Best Interest First Offender Act (FOA) Pursuant to O.C.G.A. § 16-13-2
15. Yes I am in fact guilty of each offense to which I am pleading guilty.
16. Yes I have had time to confer with an attorney and: (check appropriate response)
 I do not want an attorney; and, I waive my right to an attorney and I will represent myself.
 I am satisfied with my attorney's services on my behalf.
17. Yes I understand that this plea may have an impact on my immigration status if I am not a citizen of the United States of America.
18. Yes I understand that any habeas corpus petition on my behalf must be filed within one year of a conviction for a misdemeanor and/or four years for a felony.

I, the undersigned defendant, have either read or have had read to me all of the foregoing statements. I understand the statements and swear or affirm that my answers or responses are true, correct and voluntarily made.

Sworn to and subscribed by the accused before me on this
The 17th day of August, 2013.

Christina McLeMore
Defendant

Clerk, Superior Court of Said County

Attorney for Defendant
 By Employment By Appointment

Exhibit B

SC-6.2 Final Disposition Felony Sentence With Probation

IN THE SUPERIOR COURT OF TOOMBS COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus

CHRISTINA MCLEMORE

Clerk to complete if incomplete:

OTN(s): 88387806183

DOB: 07/30/1977

Ga. ID#: _____

CRIMINAL ACTION #:

13-CR-128

August

Term of 2013

Final Disposition:
FELONY with PROBATION

First Offender/Conditional Discharge entered under:

PLEA:

O.C.G.A. § 42-8-60 O.C.G.A. § 16-13-2

Negotiated Non-negotiated

Jury Non-jury

Repeat Offender as imposed below

Repeat Offender waived

The Court enters the following judgment:

Count	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Afford Guilty-Lesser Incl. Nolo, Not Pros, Dead Docket)	Sentence	Fine	Concurrent/Consecutive, Merged, Suspended
1	Possession of Methamphetamine	Guilty	15 YEARS BV E TWO PAROLE 1807		
2	Possession of Marijuana Less 1 oz	Guilty	12 MTHS PROB.		Concurrent
3					
4					

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 FIFTEEN (15) YEARS, with the first EIGHT (8) 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 10/02/13; 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 EIGHT (8) 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.:

§ 17-10-7(a); § 17-10-7(c); § 16-7-1(b); § 16-8-14(b); or § _____

2013 NOV 14 4:01
 FILED BY TOOMBS COUNTY
 CLERK OF COURTS
 VERDICT

Exhibit 1

GEORGIA, Superior Court of Toombs County *

Case No. 13-cr-128

STATE OF GEORGIA *

Offense(s): Poss of Meth

VS. *

12-mo Marij. less 1ea

Christina M. McLemore, Defendant *

Offender Tracking Number (OTN): _____ *

SWORN STATEMENT OF DEFENDANT

The Defendant, having been sworn, states the following to the Court: (indicate Yes or No for each statement)

- 1. yes I understand that I am charged with the offense(s) listed above.
- 2. yes I understand that a conviction of these charge(s) could result in my imprisonment from 1 to 15 ^{12 month} years.
- 3. yes I understand that I have a right to a trial by a jury, and I hereby expressly waive that right.
- 4. yes I understand that I am presumed to be innocent of the charge(s) and that the State has to prove that I am guilty.
- 5. yes I understand that I have a right to confront the witnesses against me.
- 6. yes I understand that I have a right to testify in this case if I want to, but I could not otherwise be forced to testify or to incriminate myself in any way.
- 7. yes I understand that I can subpoena witnesses to testify on my behalf.
- 8. yes I understand that I can present any other relevant evidence in my case.
- 9. yes I understand that if I exercised my right to a trial by jury, I have a right to be assisted by a lawyer at that trial.
- 10. yes I understand that if I were to plead not guilty, or, if I remained silent and entered no plea at all, then I would automatically receive a jury trial.
- 11. yes I understand that the District Attorney has agreed to make a recommendation to the Court as to what sentence to impose in return for my plea of guilty.
- 12. yes I understand that if I plead guilty to the charge(s), the District Attorney will recommend as punishment:
 Fine hrs Community Service DPS DPDC EPSATC Drug Conditions Sex Offender
Count 1: 9 yrs to serve without parole with 7yrs on probation
Count 2: 12 months concurrent
concurrent with any other sentence. 1740-7(c)
- I understand that restitution in the amount of \$ _____ will be ordered by the Court pursuant to O.C.G.A. § 17-14-10. I agree to this amount and further state that I have or will have the financial ability to pay according to the terms of the restitution order.
- 13. yes I understand that the Court does not have to accept the 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 that I held before entering my plea.
- 14. yes With all of the foregoing in mind, I waive my right to a jury trial and hereby voluntarily plead:
 Guilty Best Interest First Offender Act (FOA) Pursuant to O.C.G.A. § 16-13-2
- 15. yes I am in fact guilty of each offense to which I am pleading guilty.
- 16. yes I have had time to confer with an attorney and: (check appropriate response)
 I do not want an attorney; and, I waive my right to an attorney and I will represent myself.
 I am satisfied with my attorney's services on my behalf.
- 17. yes I understand that this plea may have an impact on my immigration status if I am not a citizen of the United States of America.
- 18. yes I understand that any habeas corpus petition on my behalf must be filed within one year of a conviction for a misdemeanor and/or four years for a felony.

I, the undersigned defendant, have either read or have had read to me all of the foregoing statements. I understand the statements and swear or affirm that my answers or responses are true, correct and voluntarily made.

Sworn to and subscribed by the accused before me on this
The 1st day of November, 2013.

Ronnie G
Clerk, Superior Court of Said County
Deputy

Christina M. McLemore
Defendant

[Signature]
Attorney for Defendant
 By Employment By Appointment

SC-6 Final Disposition Felony Confinement Sentence

IN THE SUPERIOR COURT OF TOOMBS COUNTY, STATE OF GEORGIA

STATE OF GEORGIA versus

CHRISTINA MCLEMORE

Clerk to complete if incomplete:

OTN(s): 88391913256

DOB: 07/30/1977

Ga. ID#:

CRIMINAL ACTION #:

13-CR-160

August

Term of 2013

Final Disposition:
FELONY CONFINEMENT

FILED BY TOOMBS COUNTY CLERK OF COURT
2013 NOV 22
VERDICT: Non-jury

First Offender/Conditional Discharge entered under:

PLEA:

O.C.G.A. § 42-8-60 O.C.G.A. § 16-13-2

Negotiated Non-negotiated

Jury Non-jury

Repeat Offender as imposed below

Repeat Offender waived

The Court enters the following judgment:

Court	Charge (as indicted or accused)	Disposition (Guilty, Not Guilty, Guilty-Alford, Guilty-Lesser Incl, Nolo, Not Pros, Dead Docket)	Sentence	Fine	Concurrent/Consecutive, Merged, Suspended
1	Financial Transaction Card Theft	Guilty	4 YRS TO SV W/O PAROLE		
2	Financial Transaction Card Fraud	Guilty	3 YRS TO SV W/O PAROLE		Concurrent
3	Financial Transaction Card Fraud	Guilty	2 YRS TO SV W/O PAROLE		Concurrent
4	Financial Transaction Card Fraud	Guilty	2 YRS TO SV W/O PAROLE		concurrent

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 FOUR (4) YEARS.

The Defendant is to receive credit for time served in custody: from 10/02/13; or

as determined by the custodian.

The Court sentences the Defendant as a recidivist under O.C.G.A.:

§ 17-10-7(a); § 17-10-7(c); § 16-7-1(b); § 16-8-14(b); or § _____

The Defendant shall pay restitution in the amount of \$ 495.45 through the Clerk of Court for the benefit of the victim(s), _____

GEORGIA, Superior Court of Toombs County * Case No. 13-CR-160
 *
 STATE OF GEORGIA * Offense(s): Fin Trans. Card Theft
 * Fin. Trans. Card Fraud
 *
 VS. *
 *
Christina Mclemore, Defendant *
 Offender Tracking Number (OTN): _____ *

SWORN STATEMENT OF DEFENDANT

The Defendant, having been sworn, states the following to the Court: (indicate Yes or No for each statement)

1. Yes I understand that I am charged with the offense(s) listed above.
2. Yes I understand that a conviction of these charge(s) could result in my imprisonment from 1 to 14 years.
3. Yes I understand that I have a right to a trial by a jury, and I hereby expressly waive that right.
4. Yes I understand that I am presumed to be innocent of the charge(s) and that the State has to prove that I am guilty.
5. Yes I understand that I have a right to confront the witnesses against me.
6. Yes I understand that I have a right to testify in this case if I want to, but I could not otherwise be forced to testify or to incriminate myself in any way.
7. Yes I understand that I can subpoena witnesses to testify on my behalf.
8. Yes I understand that I can present any other relevant evidence in my case.
9. Yes I understand that if I exercised my right to a trial by jury, I have a right to be assisted by a lawyer at that trial.
10. Yes I understand that if I were to plead not guilty; or, if I remained silent and entered no plea at all, then I would automatically receive a jury trial.
11. Yes I understand that the District Attorney has agreed to make a recommendation to the Court as to what sentence to impose in return for my plea of guilty.
12. Yes I understand that if I plead guilty to the charge(s), the District Attorney will recommend as punishment:
 Fine hrs Community Service IPS SPDC PSATC Drug Conditions Sex Offender
Count 1: 4 yrs to serve without parole
Count 2: 3yrs to serve without parole concurrent
Count 3: 6. 2yrs to serve without parole concurrent
concurrent with any other sentence 1740
 I understand that restitution in the amount of \$ 495.45 will be ordered by the Court pursuant to O.C.G.A. § 17-14-10. I agree to this amount and further state that I have or will have the financial ability to pay according to the terms of the restitution order.
13. Yes I understand that the Court does not have to accept the 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 that I held before entering my plea.
14. Yes With all of the foregoing in mind, I waive my right to a jury trial and hereby voluntarily plead:
 Guilty Best Interest First Offender Act (FOA) Pursuant to O.C.G.A. § 16-13-2
15. Yes I am in fact guilty of each offense to which I am pleading guilty.
16. Yes I have had time to confer with an attorney and: (check appropriate response)
 I do not want an attorney; and, I waive my right to an attorney and I will represent myself.
 I am satisfied with my attorney's services on my behalf.
17. Yes I understand that this plea may have an impact on my immigration status if I am not a citizen of the United States of America.
18. Yes I understand that any habeas corpus petition on my behalf must be filed within one year of a conviction for a misdemeanor and/or four years for a felony.

I, the undersigned defendant, have either read or have had read to me all of the foregoing statements. I understand the statements and swear or affirm that my answers or responses are true, correct and voluntarily made.

Sworn to and subscribed by the accused before me on this
The 20th day of November, 2013.

[Signature]
Clerk, Superior Court of Said County

Christina Mclemore
Defendant

Attorney for Defendant
 By Employment By Appointment

IN THE SUPERIOR COURT OF Toombs COUNTY
STATE OF Georgia

Christina M. McLenore

PETITIONER

VS.

CIVIL ACTION NO: 14 CV-210

Telley Lamont McLenore

RESPONDENT

PAPUPER AFFIDAVIT

Christina M. McLenore, depose and say that I am the petitioner in the above entitled case; that in support of my request to proceed without being required to prepay fees, cost or give security therefore, I state that because of my poverty I am unable to pay the cost of said proceeding or to give security therefore; that I believe I am entitled to redress.

Christina M. McLenore, verify that the statement I have given are true of my own knowledge.

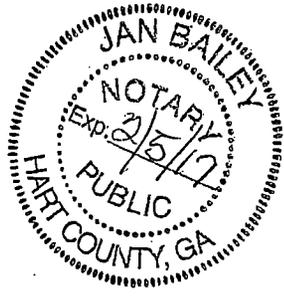
I understand that a false statement in this affidavit will subject me to penalties for perjury.

Christina McLenore 3/20/14
PETITIONER DATE

Sworn to and subscribed before me

This 20 day of March 2014

Jan Bailey
Notary Public



FILED BY TOOMBS COUNTY
CLERK OF COURTS
2014 MAR 27 AM 11:52

SCANNED

Exhibit 14

IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

CHRISTINA McLEMORE,

Defendant.

§
§
§
§
§
§
§
§

Case No: 13-CR-128

13-CR-160

Motion to Modify Sentence

RULING AND ORDER

Defendant files instant Motion to Modify Sentence, which does not require an oral hearing. McCrosky v. State, 234 Ga. App. 321 (506 S.E.2d 400) (1998); Ga. Criminal Trial Practice § 26-43 (2006 ed.). Defendant has previously filed a Motion to Modify Sentence which was denied by this Court in an order filed on May 20, 2014. Additionally, this Court notes that Defendant has filed instant motion in Toombs County Superior Court requesting the reduction of a sentence imposed in Emanuel County Superior Court (13CR58).

Defendant pled guilty to two Toombs County cases, 13CR128 and 13CR160, on November 21, 2013. In Toombs County case 13CR160 Defendant pled guilty to one count of Financial Transaction Card theft and five counts of Financial Transaction Card Fraud. As a result of this plea, Defendant was sentenced, in total, to four years to serve without parole with all counts running concurrently. In Toombs County case 13CR128 Defendant pled guilty to one count of Possession of Methamphetamine and one count of Possession of Marijuana less than 1 ounce. Based on this plea, this Court sentenced Defendant, in total, to 15 years with 8 years to be served in confinement with both counts running concurrently. Thereafter, Defendant pled guilty on a negotiated plea to Burglary in the first degree in Emanuel County (13CR58) on November 21, 2013. Subsequently, Defendant was sentenced to 20 years with the first 8 years to be served in confinement. This sentence was entered to run concurrently with other sentences stemming from convictions in Toombs County (13CR128, 13CR160).

Exhibit T

Defendant's instant motion avers that her sentence should be modified based upon the fact that she did not receive notice of the state's intention to use prior convictions in aggravation of punishment pursuant to O.C.G.A. § 17-10-2(a).

"O.C.G.A. § 17-10-2(a) is not applicable to sentences imposed pursuant to a hearing on a guilty plea." Burruss v. State, 242 Ga. App. 241, 242, 529 S.E.2d 375 (2000).

Accordingly, Defendant's Motion to Modify Sentence is hereby DENIED.

SO ORDERED this 8th day of September, 2014.



HON. KATHY S. PALMER
Chief Judge of Superior Court
Middle Judicial Circuit



CERTIFICATE OF SERVICE

I, Marsha C. Riner, secretary to Chief Judge Kathy S. Palmer, do hereby certify that I have this date served the within Ruling and Order upon the individuals listed below by mailing a true copy of the same to them by U.S. Mail in envelopes having sufficient postage thereon to ensure delivery and addressed as follows:

CHRISTINA MARIE McLEMORE

GDC No.0000963373

Whitworth Facility

P.O. Box 769

Hartwell, GA 30643

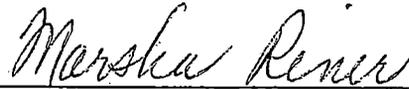
OFFICE OF DISTRICT ATTORNEY

Middle Judicial Circuit

200 Courthouse Square, Suite 1

Lyons, GA 30436

this 8th day of September, 2014.



Marsha C. Riner

Secretary to Hon. Kathy S. Palmer

Chief Judge of Superior Court

Middle Judicial Circuit

P.O. Box 330

Swainsboro, GA 30401

Phone: 478-237-3260

Fax : 478-237-0949

In the Superior Court of Troup County State of Georgia

Criminal Action #13-CR-58
#13-CR-123
#13-CR-160

Motion to Modify Sentence

State of Georgia
vs
Christina Marie McLemore

Comes now the defendant Christina Marie McLemore to file this motion to modify the sentence of the court entered in November 21st, 2013, in Troup County.

The defendant shows that she is within one year of the sentencing date and are therefore with in the statutory limit for filing this motion.

The defendant shows that she plead guilty to following charges:

(1)

First Degree Burglary - sentence 20 years serve 8 years without parole, sentenced under the recidivist act OCGA 17-10-7(c)

(2)

Possession of Methamphetamine - sentence 15 years serve 8 without parole, sentenced under the recidivist act OCGA 17-10-7(c)

(3)

(1) Count of Financial Transaction Theft, and (5) Counts of Financial Transaction Card Fraud - sentenced to a total of 4 years to serve without parole, also sentenced under the recidivist act OCGA 17-10-7(c)

(1)

Comes now the defendant in the above-styled action and moves this honorable court to grant her motion to modify sentence, as just cause for the instant action, defendant shows and states as follows:

CGA 17-10-7 provides for enhanced sentencing of repeat offenders, where no other sentencing provision controls, however -7-1(b) provides specific sentencing scheme for those convicted more than once for burglary. For this reason the general

FILED BY CLERK OF COURTS
JUL 25 PM 4:00

recidivist scheme of OCGA 17-10-7 does not apply.
Norwood v/s State 249 Ga. App. 507, 548

(2)

One must be indicted as a recidivist in order to impose recidivist punishment. Brown v/s State 144 Ga. App. 509, 241 S.E. 2d 66

In order to receive recidivist punishment one must have been indicted under a recidivist statute, one's prior convictions having been considered by the grand jury, and having been included in the indictment. Aldridge v/s State 158 Ga. App. 719, 282 S.E. 2d 11

(3)

OCGA 17-10-2 states that the State must meet the "clear notice" requirement, producing a "Notice of States intention to seek punishment of the Defendant as a repeat offender."

Plea Bargain negotiations can serve the same purpose as the giving clear notice under subsection (a) of that section and plea bargain negotiations are conducted, the defendant can be given "clear notice" of what the state intends to rely upon in aggravation of sentencing at the guilty plea hearing. Martin v/s State 207 Ga. App. 861, 429 S.E. 2d 332 (1993)

(4)

17-12-1 This chapter is known as the "Georgia Indigent Defense Act of 2003". Subsection (c) states as follows "The council shall be responsible for assuring that adequate and effective legal representation is provided, independently of political considerations or private issues or interest, to indigent persons who are entitled to representation under this chapter."

I accepted the pleas in this modification, was, under the impression it was in my best interest, however, upon equal research, I no longer believe that. The attorney appointed to represent the cases in this motion, however, failed to inform or even consider the facts implied in this motion, instead counseled me to take the plea, a sentence I would not have accepted had I known that I should not.

(5)

The defendant does not wish to hide my guilt in a fact guilty of the charges, do not wish to change that, however, I feel as though I was not represented as well as could have, rather was misled or a mistake

FILED BY TONIA S. GIBSON
CLERK OF DISTRICT COURT
2011 JUL 25 11:10 AM

Recidivist scheme of OCGA 17-10-7 does not apply. *Norwood vs State* 249 Ga. App. 507, 548 (a)

One must be indicted as a recidivist in order to impose recidivist punishment. *Brown vs State* 144 Ga. App. 509, 241 S.E. 2d 62. In order to receive recidivist punishment one must have been indicted under a recidivist statute, one's prior convictions having been considered by the grand jury, and having been included in the indictment. *Hidridge vs State* 158 Ga. App. 719, 283 S.E. 2d 111 (3)

OCGA 17-10-2-States - That the State must meet the "clear notice" requirement, producing a "Notice of States intention to seek" punishment of the defendant as a repeat offender.

Plea bargain negotiations can serve the same purpose as the giving clear notice under subsection (e) of that section and plea bargain negotiations are conducted, the defendant can be given "clear notice" of what the state intends to rely upon in aggravation of sentencing at the guilty plea hearing. *Martin vs State* 207 Ga. App. 861, 447 S.E. 2d 332 (1993) (4)

17-12-1 This chapter is known as the "Georgia Indigent Defense Act of 2003"; subsection (c) states as follows: "The council shall be responsible for assuring that adequate and effective legal representation is provided, independently of political considerations or private issues or interest, to indigent persons who are entitled to representation under this chapter." I accepted the pleas in this modification, was under the impression it was in my best interest, however, upon legal research, I no longer believe that the attorney appointed to represent the cases in this motion, however, failed to inform or even consider the facts implied in this motion, instead convinced me to take the plea, a sentence I would not have accepted had I knew that I should not (5)

The defendant does not wish to hide my guilt in fact guilty of the charges, do not wish to change not, however, I feel as though I was not represented as well as could have, rather over worked or a mistake

FILED BY TOOMBS COUNTY CLERK OF COURT JUL 25 11 10 AM '11

like the opportunity to be able to prove myself worthy and rehabilitated in order to receive the possibility of parole. To lift the reidivist act 17-10-7(c) of the sentences imposed by the court, through the recommendation of the District Attorney, I am asking that the court modify the sentences imposed to a more reasonable judgement allowing parole on each sentence and removing the reidivist act 17-10-7(c). Allowing the defendant a chance at parole, will allow the chance for a rehabilitated woman to prove herself worthy to enter society and to contribute to her family.

(6)

Please consider the following:
Since the beginning of my incarceration I have be seeking and obtaining information needed to insure that I can be a productive member of society. Also the treatment of mental health, substance abuse, as well as Domestic violence issues. I am currently in a 12 step program which is also faith based "Overcomers". I am truly remorseful for my actions and the damages I have caused. I only wish to correct the wrongs I have made. I can not change my past however, I can change my future. I hoping that the court grant this motion and give me the chance to do just that by modifying the sentences imposed to the lesser allowing parole to each sentence and by removing the reidivist act 17-10-7(c) Thank you for your time and consideration in this matter.

Respectfully Submitted
Christina McLenore
Whitworth Womens Facility
P.O. Box 7169
Hartwell GA 30643
7/11/17
2017 JUL 11 AM 10:40
FILED
CLERK OF COURTS
DOMBS COUNTY
GA 303373

Jan Bailey
Notary Public for State of Georgia
My Commission Expires 2/5/17



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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

November 7, 2014

Mr. Kelvin D. Payne, Jr.
GDC1069948
Wheeler Correctional Facility
Post Office Box 466
Alamo, Georgia 30411

RE: A09A1182. Kelvin Dennis Payne, Jr. v. The State

Dear Mr. Payne:

The Court of Appeals of Georgia affirmed the judgment of the trial court in the above appeal on November 13, 2009. The remittitur issued from this Court on February 2, 2010, divesting this Court of any further jurisdiction of your case.

According to our docket, your attorney, Mr. Peter Odom filed the "Notice of Intent" on your behalf. Please contact your attorney at the following address for any further information you are seeking: Peter Odom, Esq., The Odom Law Firm, 1708 Peachtree Street, N.W., The Brookwood Exchange • Suite 115, Atlanta, Georgia 30309.

If you have any questions concerning your Petition for a Writ of Certiorari with the Supreme Court of Georgia, you should contact the Clerk of the Supreme Court of Georgia. The mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W. • Suite 572, Atlanta, Georgia 30334.

Sincerely,



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

SEC/ld

RECEIVED IN OFFICE

2014 NOV -6 PM 4:03

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

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

Re. Kevin Dennis Payne v. State of Ga.

Case No. A09A1182

Dear Clerk:

Enclosed please acknowledge on Dec. 14th, 2009

my Counsel of record Peter K. Odum. Filed in

this Court Notice of Intention to Apply for

Certiorari pursuant to Rule 38 of both appellant

Court of Appeals and Supreme Court of

Ga. and suppose to trigger the transmittal

of the record from Appeals Court to the

Supreme Court of Ga. please advise me of

the current status as appellant seek

review. and over four (4) years has elapse in

this case. please respond.

Thank you for consideration in
this matter.

Sincerely

Kevin D. Payne
appellant's signature.

10-21-2014

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 7, 2014

To: Mr. Steven Roberts, GDC459243, Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

RECEIVED IN OFFICE
2014 NOV -7 PM 2:39
COURT ADMINISTRATOR
COURT OF APPEALS OF GA

11-04-2014

TO: GA COURT OF APPEALS
OFFICE OF RECORDS
CLERK OF COURT

FROM: STEVEN ROBERTS 45943 #
COURT CORNER FORTY
PO BOX 650
WILKES GA 31554
7-00-B-34

RE: Judge LAORNA
13SC122783

FULTON COUNTY, ATLANTA GA
REGISTERED FAILURE
FILED IN OFFICE 3-27-2014

ATTORNEY OF RECORD MARILYN PRINCE

ON 3-27-2014 A Bench Trial

Occured A Judgment Entered
Council Was Ordered To File

Message Of Court Of Appeals
On Grounds Stated,

We Are At This Time Attempting
To Verify Status Of Filing And
Recording Of The Same

(Handwritten signature)

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

Date: November 7, 2014

To: Mr. Michael Tucker, GDC633157, Muscogee County Prison, Post Office Box 84041, Columbus, Georgia 31908

Docket Number: A15A0033 **Style:** Michael Tucker v. The State

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

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. **An improper Certificate of Service accompanied your document(s). Rule 6**
5. **Your Certificate of Service must include the complete name and mailing address of the District Attorney and you should provide a copy of your filing to the District Attorney.**
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)
Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
Document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule
Supplement has not been granted.

IN The Court OF APPEALS
State OF Georgia,

Michael Tucker
Appellant Pro-Se

Vs.

APPeal CAse # A15A0033
Superior Court Case#

State OF Georgia
Appellee

2013SUCR779

APPELLANT'S Brief And ENUMeration
OF ERRORS,

Michael Allen Tucker G.D.C. 633157
Muscogee County Prison
P.O. Box 84041
Columbus, GA, 31908

RECEIVED IN OFFICE
2014 OCT 24 PM 2:58
COURT OF APPEALS

RECEIVED IN OFFICE

2014 NOV 5 PM 3:07

COURT OF APPEALS OF GA

1.) Statement of Facts

ON January 7, 2014, I enter a Plea of Guilty Negotiated For 6 years on count 1 and on count 2 Nolle Pros, with a 1,000 Restitution Payable to a Ms, Sherry Kirby at 418 Eagleview Drive, Ringgold, Ga, 30736,

ON June 6, 2014 Mr. Tucker had filed a motion to Clarify Sentence, ON April 14, 2012 I turn myself in to Catosa County Sheriff's Dept. and was Booked in and charge with Theft By Taken of a motor vehicle, ON April 17, 2012 I was Released to D.O.G. To Complete my 3 years sentence, ON 8-7-2013 Mr Tucker was Return to Catosa Co. Sheriff's Dept. on said warrant. and Re Booked in. I enclosed in a Copy of Court Transcripts, See Pages 6-7 Due to the unusual complexity of attempting to compute the credit for time served, the exact amount of time to receive credit for was not set in stone at the plea hearing bid, However, Judge Mr Van Pelt Stated for the record that should Mr. Tucker be counter difficulty receiving credit for time served awaiting trial to contact him, also it states Mr Tucker said Judge I will receive credit from April 14, 2012. Mr. Tucker filed a motion to Clarify Sentence For Time Credit, which was denied,

ON April, 15 2012 I was appointed Mr William Lanphier whom worked for the Public Defenders Office

at that time, Mr Tucker made several pleas to proceed with the case, However, he never received any response, ~~upon~~ enclosed are letter trying to contact Mr Lanphier to The Superior Court Clerk and The Public Defenders office Mr Punn, along with the State Bars of Georgia, with Mr Lanphier did not respond to either, Mr Tucker found out upon returning from D.O.C. to Cataosa Co. Sheriff's Department, He was Reappointed Ms Kristin Patten, for the Public Defenders office, and was told Mr Lanphier was no longer with The Public Defenders office, I was never informed by The Public Defenders office.

Mr Tucker only took the plea (because) He was told by Ms. Kristin Patten if found guilty He (I) would do at least 20 years. She stated I would receive all my time credit. See Transcript.

I later found out Ms Kirby stated she had found a large amount of the item she said Mr Tucker took. Also she call The District Attorney Ms. Leanna Granillo, and ask to drop charges. she was told if so, The state would take them over. I was never told by my attorney Ms. Kristin Patten. Ms Kirby and I lived together. she can also be contacted by phone at. 706-935-2424 -(423) 580-0386 To state the above

ON July 22, 2014, I filed a motion to Remold Sentence, with was not Ruled on, It was sent to the Appeals Court with the motion to clarify sentence.

I later found out Count 2 was Walk Res, That Count was Theft by taken on items.

I was sentence to Count 1 Theft by Taken of a Motor Vehicle, Mrs Kirby states on late 2012 there was no damages to the car, The value of the car was only 1,500⁰⁰

Under the Plea The Restitution was for Count 2 with was dismiss, IF I was sentence to Count 2 it only carries

1-5 years in Prison, I was sentence to 6 years on count 1 OR and 1000⁰⁰ Restitution That does not consist of Count 1

My motion to Remold sentence states when the state

Nolle Prossed Count two all associated Restitution thereon was

as well terminated, The 1,000⁰⁰ Restitution should be omitted.

OR sentence to Count 2 and not count 1 with will

Carry 1-5 years not 6 above the guide lines.

ON 3-11-14 I filed a motion to modify sentence.

Grounds on my 3 years sentence to D.O.C. I later

find out my warrants states 3 Theft by Taken Warrants

were stated as Felonys, (Later I Review Warrants) and I was

Sentence to D.O.C. For 3 Misdemeanors, Same Attorney as Mr

Lanphier I could not contact by mail as stated above

Presiding Judge The Judge Van Belt. ON Both cases

Jurisdiction AND Enumeration OF error,

Jurisdiction,

The Court of Appeals of Georgia has proper jurisdiction over this matter as this is an appeal from the Final Judgment of a Georgia Superior Court in a non-capital felony case.

Jurisdiction of this category of appeal is conferred upon this court under the provisions of Article VI, Section V, Paragraph III of the Georgia Constitution.

Enumeration OF Error,

- 1.) The Court's error by threaten Mr. Tucker to Give Max of Guideline if he does not take Plea,
- 2.) The Sentence is Void By error in Sentencing
- 3.) The failure to give Mr. Tucker the correct Jail Credits.
- 4.) The Motion to Clarify Sentence and to Remold Sentence will also show many Case Law's and O.C.G.C.
- 5.) When the Court knew the sentence of Punishment is illegal And Refuse to correct, The Public Defenders office and Clerk of Court allow Mr. Laubier work no longer with them.

See Transcripts and Motions Please.

For these reason, the Defendant Requests this Honorable Court to reverse and or Vacate his Sentence.

Respectfully Submitted this Day Oct. 21, 2014

Michael Allen Tucker

G. D.C. 633157

10-21-2014

(PRO-SE Standards)

The 11th Circuit has frequently held that the Standards governing the Sufficiency of any petition ~~of~~ any Petition filed Pro-se are to be held with Less Stringent when petition is drafted without aid of Counsel," See, Holcomb v. White, 133 F-3d 1382 (11th Circuit 1998) also McDaniel v Seely For The Dept OF Corr, 2007

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:

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

This the 30 day of OCT 2014.

Michael A. Tucker
GDC: 633157
Muscogee Co. Prison
P.O. Box 84041
Columbus, GA 31908

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 10, 2014

To: Ms. Kimberly Painter, 15B Wren Court, N.W., Cartersville, Georgia 30121

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

Court of Appeals Case Number and Style: _____

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

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

State Court of Cobb County

State of Georgia

Case #14-W-5978

Cross-Reference to Cobb County Case #14-1-5928-99 &
Paulding County Superior Court Case # 13-CV-895-TB

Paulding County (Open Records of CASES Fred Hanna v. Joseph Painter & Kimberly Painter)

November 5, 2014

*Service to Mr Barry Morgan via USPS mail delivery
by Defendant on Nov. 5, 2014*

STATE OF GEORGIA

v.

KIMBERLY PAINTER
Defendant

*All correspondence to address:
ISB Wren Ct., NW
CARTERSVILLE, GA, 30121*

State Court of Cobb County
Attention: Barry Morgan, Solicitor General
12 East Park Square, Suite 101B
Marietta, GA 30090
(770) 528-8500
(770) 528-8578 fax

State of Georgia Appellate Court
47 Trinity Ave SW, Atlanta, GA 30334
(404) 656-3450

RECEIVED IN OFFICE
2014 NOV 7 PM 1:59
CLERK/CLERK ADMINISTRATOR
COURT OF APPEALS OF GA

Attn: Appellate Court of State of Georgia/Solicitor General

RE: Case # 14-W-5978/Request for Case Dismissal *Review for Appeal Decision*

Denial of 6th Amendment Right to Speedy Trial

Time Frames and DELAYS:

July 6, 2014: Date of arrest of accusation, without marks on child, with unlawful rights violations of Defendant and minor children (see in DAMAGES).

August 1, 2014: Arraignment, with no suitable explanation and Solicitor's Office offering no explanation of reason for delay, pushed to October 31, 2014

October 31, 2014: Second Arraignment set with still no causation, discrimination to Defendant, with respect to right's to Speedy Trial, by way of abuse of an attempt to delay through exhausting time periods to accuse; however, doing so with intentional prejudice towards Defendant, as evidenced by, seemingly punitive measures. Denial of information excusing delays and push to **December 19, 2014** (again, no explanation, already pre-filled and with no regard to statements below. In addition and based on assertion of Detective assigned arrest case, who took child for second interview, likely to do damage control for prior day mistakes during on-scene investigation, without prior or subsequent acknowledgement to Defendant, in violation of her rights guided by parental , and with written assertion to deferring case to arrest with no additional charges/findings.

As of today's date, **November 5, 2014**, Defendant has yet to be anything, but accused (arrest), in a case filled with corruptive practices. Many additional factors to investigate and that should promote strong concerns in this case include: failures to complete, with findings, in spite of follow up by Defendant, false arrest (proven through correction), Solicitor's utilization of an ex-husband in capacity of aiding case, while denying essential rights of Defendant to assist in the working of case, with limited regard to Defendant's ex having past of Battering and obvious prejudice in case. Ex allowed time period to aid in providing false statements by both children by being given time to discuss with children what to say prior to second interviews.

I, Kimberly J. Painter, petition for, in writing and request, in the above courts both, Cobb State and Appellate, for primary violations of my 6th Amendment Right to a Speedy Trial, with specific time consideration delays that are both resulting in known **damages** to Defendant in the following capacities:

- 1) Defendant's right to fair hearing and completion of TPO Court involvement, with evidence and ruling leaning on case referenced above and causing harm to client's right to obtain default custody of children back, based on courts utilization of arrest, to impede on client's right to custody of minor children; including, but not limited to, one involved in this case and with prejudice of this matter over Cobb Judge's statement of no encumbrances of parental right at time of release from incarceration and superseding settlement case regarding child custody fully mediated/settled in Paulding County (Case # 13-CV-895-TB)
- 2) Defendant's right to continued medical care, that is being delayed and potentially denied, due to continued refusal of the court to grant formal charges, intentional delays as a likely punitive measure, due to the following:
 - a. Defendant requesting Internal Affairs Audit (within 30 days of receipt by Internal Affairs Office with copy delivered to Solicitor General, Barry Morgan's office as well, of crime scene (see attached), but in summary due to failure to separate children and allowing false statements, officer remaining in apartment, with child, subsequent to arrest, No Miranda, intentional avoidance of Defendant's right to knowledge of child continued interviews, court's

contribution to decline and failure to meet, by default, minor's mental, physical, educational, spiritual and wealth of other rights outlined and attached.

- b. Defendant's continued assertion of rights being violated to the office of Barry Morgan and Assistant Solicitor's Office.
 - i. Obvious indication occurring on last postponement by Solicitor's Office on 10-31-2014, whereby Assistant spoke with all other court attendees/defendants with regard to case handling and dissolution; yet, pulling out already pre-filled carbon (yellow) and voicing, to the extent witnesses on second row of court room could hear her denying, delaying arraignment and excusing behaviors through statement of audible mention of Defendant... 'She is crazy...' accompanied by much laughter and handing of additional delay of arraignment and formal charging.
- c. Defendant's statement of conflict, with denial of consideration to interest with Magistrate Judges, associated with Fred Hanna, with regard to two prior lawsuits pertaining to former spouse and self, whereby Defendant's cases were in direct connection to Judges in Cobb County, who were also, unethically, acting as Attorneys and potential vested parties of interest in Fred Hanna; both cases, resulted in the obvious indication of poor practices and violations of Defendant's and rulings lacking favor of these Attorney's/Judges.
- d. Damages to impending final sign of custody and dissolution of marriage, due to arrest, and Defendant's right to complete, causing damage and inconsistency to minor children as victims of the State Court of Cobb County with cross-reference to Paulding County Case #(Case # 13-CV-895-TB)
- e. Anxieties, as damages, to Defendant and children, with obvious increases in needed treatment interventions, resulting from induced stress and intentional delays, by denial of speedy trial.

Respectfully Submitted,

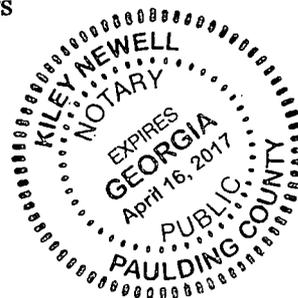
Kimberly Johns Painter

Kimberly Johns Painter, Pro Se in some above matters

Attorney Jeffrey A. Johnson, Esq

NOTARY PUBLIC:

Kiley Newell



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 10, 2014

To: Mr. Billy Phillips, GDC1186469 G-1, Rogers State Prison, 1978 Georgia Highway 147, Reidsville, Georgia 30453

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

Court of Appeals Case Number and Style: A14A1308. Billy Wayne Phillips v. The State

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

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

A14A1308. Billy Wayne Phillips v. The State

Your appeal was disposed by opinion on October 15, 2014. The Court of Appeals affirmed the judgment of the trial court. The remittitur issued on October 30, 2014, divesting this Court of any further jurisdiction of your case. The case is therefore, final. Your documents are being returned to you.

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

The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.

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

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

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

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

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

IN THE COURT OF APPEALS OF GEORGIA

State of Georgia
vs
Billy Wayne Phillips
Defendant

A14A1308

THE MOTION OF MAILBOX RULE

The decision and order denying Defendants Appeals from final Court Motion to Sever is of importance to this case that immediate review by an Appellate Court should be had.

Defendant did receive decision from denying motion on Oct 28 2014 at Roger State Prison 1978 GA Hwy 147 Reidsville GA 30453. Defendants reconsideration Motion should be admitted under Mailbox Rule *Massaline v Williams, 274 Ga. 552 (2001) 574 SE 720*

Billy Wayne Phillips
~~Billy Wayne Phillips~~

Date Oct 30 2014

Judith B...
11/03/14



CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

2014 NOV -7 PM 2:01

RECEIVED IN OFFICE



ROME JUDICIAL CIRCUIT PUBLIC DEFENDER OFFICE

12 East 4th Avenue • Suite G-11 • Rome, Georgia 30161

Telephone 706-234-0975 • Facsimile 706-234-0978

T. Lee Henley
Circuit Public Defender

October 16, 2014

Mr. Billy Wayne Phillips
GDC ID: 0001186469
Atry State Prison
3178 Mount Zion Church Rd.
PO Box 648
Pelham, GA 31779

RE: Judgment enclosed

Dear Mr. Phillips:

I hope this letter finds you well. Please find enclosed the judgment denying your appeal from the Court of Appeals. While this is not the result for which we hoped, it is the final judgment of the Court of Appeals. This has concluded my representation in this case and I wish you luck and wellness in the future.

Best,


J.J. Walker Seifert
Assistant Public Defender
Rome Circuit

/jjws
enclosure

**SECOND DIVISION
ANDREWS, P. J.,
MCFADDEN and RAY, JJ.**

**NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
days of the date of decision to be deemed timely filed.
<http://www.gaappeals.us/rules/>**

October 15, 2014

In the Court of Appeals of Georgia

A14A1308. PHILLIPS v. THE STATE.

MCFADDEN, Judge.

Billy Phillips appeals from the trial court's denial of his motion to withdraw his guilty pleas. Because the trial court did not abuse its discretion in denying the motion, we affirm.

The record shows that Phillips was indicted for multiple offenses, including aggravated assault, terroristic threats and stalking. On August 29, 2013, the trial court held a calendar call at which Phillips' retained counsel announced that they were ready for trial. The case came on for a jury trial on September 16, 2013. But before the start of jury selection, Phillips informed his attorney that he wanted to enter a guilty plea.

IN THE COURT OF APPEALS OF GEORGIA

State of Georgia

VS

Billy Wayne Phillips
Defendant

A14A1308

THE MOTION OF MAILBOX RULE

The decision and order denying Defendant's Appeals from trial Court. Motion to Suspend is of importance to this case that immediate review by an Appellate Court should be had..

Defendant did received decision from denying motion on Oct 28 2014 at Roger State Prison 1978 GA Hwy 147 Reidsville GA 30453. Defendant's Reconsideration Motion should be admitted under Mailbox Rule *Massaline v Williams*, 274 Ga. 552 (2001) 554 SE 720



Billy W Phillips
Billy Wayne Phillips

DATE Oct 30 2014

Linda Berry
11/03/14

IN THE COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

VS

NO. A14A1308

Billy Wayne Phillips
Defendant

Certificate of Immediate Review

THE MOTION OF RECONSIDERATION, DEFENDANT IN THE ABOVE STYLED CASE, FOR SEVERANCE HAVING BEEN DULY PRESENTED TO THE COURT, AND SAID MOTION BEING DENIED ON OCTOBER 15, 2014. THE DECISION AND ORDER DENYING DEFENDANT'S APPEAL RECONSIDERATION TO SEVER IS OF SUCH IMPORTANCE TO THIS CASE THAT IMMEDIATE REVIEW BY AN APPELLATE COURT SHOULD BE HAD

STATE OF FACTS

THE PETITIONER WAS APPOINTED G. BRIAN Mc WHORTER L.L.C. AS COUNSEL. IT IS CLEAR THAT THIS ATTORNEY WAS NOT QUALIFIED TO PROVIDE EFFECTIVE ASSISTANCE OF COUNSEL TO THE PETITIONER. THE PETITIONER FEELS THAT THE COUNSEL PROVIDED ERRONEOUS INFORMATION TO INDUCE A PLEA BY REPEATING HERE SAY FROM THE PROSECUTOR WHICH LED TO THE FUNDAMENTAL MISARRIAGE OF JUSTICE. THE NON INCLUSION OF THE EXPERT WITNESS TESTIMONY FROM HIGH LAND RIVER MENTAL HEALTH DOCTORS THROUGH DEFENSE COUNSEL WAS A DEFICIENCY, WHICH CAUSED THIS FUNDAMENTAL MISARRIAGE OF JUSTICE. THE PETITIONER COULD HAVE BEEN EXONERATED ON ALL CHARGES! THEREFORE THE OUTCOME OF THE CASE WOULD HAVE BEEN TOTALLY DIFFERENT ACCORDING

2)

To Petty v Smith 279 GA 273 612 SE 2d 276 (2005)
This amounted to premeditated malicious prosecution. By advising
petitioner to take a plea. Without producing clear expert witness
testimony that petitioner could not have perpetrated said
accusations it is very clear that the attorney was not able
to provide effective assistance to the petitioner according
to Rule 1.1 a lawyer shall not handle a matter which he knows
or should know to be beyond his level of competence. (The
mental health under standing of petitioner. Because the lawyer
misled the petitioner to believe that he would be convicted
if he went to trial. The petitioner rights under due process
have been violated. by the construed ambiguous sentence for a
charge that did not exist. See Petty v Smith 279 GA 273
612 SE 2d 276 (2005) Supporting facts IN Jenkins v State
268 GA 468 up 491 SE 2d 54 (1997) The United State Supreme
Court has recognized that a petitioner who meets two prongs
of the Strickland test has overcome the procedural bar of OLCGA
9-14-48(d). See Turpin v Todd 268 GA 820(2) 493 SE 2d (1997)
Deficiency Prong: G BRIAN Mc WHORTER LLC ASSISTANCE OF COUNSEL
WAS INEFFECTIVE BECAUSE OF A LACK OF DEVOTION TO THE INTEREST OF
THE ACCUSED. Counselor misled petitioner as to his intentions. The
petitioner feels that Counselor provided him with erroneous
information which led to the fundamental miscarriage of
justice. Any reasonable attorney should have known not to
advise his client to plea guilty to multiple felony counts knowing
expert witness testimony existed to exonerate his client
G. BRIAN Mc WHORTER LLC ASSISTANCE OF COUNSEL WAS INEFFECTIVE
BECAUSE OF HIS LACK OF DEVOTION TO THE INTERESTS OF THE ACCUSED
IN MULTIPLE WAYS defence Counsel did not present records
from Highland Rivers to the mental and sanity state of the
petitioner and ability to make a rash judgment or conclusion,
or of firmness of mind or a decision. Highland Rivers mental

3) Mental Reports and Records Showed that Petitioner was not able to make any decision without proper explanation which the petitioner did not receive from attorney. There fore this attorney unreasonable tactical decision and marked incompetence deprived petitioner of his rights to due process. See Petty v Smith 279 GA 273 613 SE 2d 276 (2005) Prejudice From The Petitioner feels that a reasonable probability existed that the outcome of his case would have been different if he had gone to trial because in his case he would have been found not guilty with the inclusion of expert witness testimony of highland rivers doctors were petitioner was hospitalize before this case. T.C. Shows attorney was in the process of obtaining said reports: because the petitioner was advised to plea guilty were exculpat evidence existence and failed to provide said evidence as directed. This shows ineffective assistance of counsel. State of facts

Judge Walter Matthews was in fact prejudice showing unavocable hatred bias intolerance disregard of facts. When a motion for his recusal was presented filed accompanied by a affidavit 3 times. State v Fleming 245 GA 700 267 SE 2d 207 (1980) PENNY v State 157 GA App 737 278 SE 2d 460 (1981) When a trial judge in a case pending in that court is presented with a motion to recuse accompanied by a affidavit the judge the judge duty will be limited to passing upon the legal sufficiency of the affidavit and assuming all the facts alleged in the affidavit to be true. Recusal would be warranted than another judge must be assigned to hear the motion to recuse! Requirements for alleged bias to be disqualifying in order to be disqualifying alleged bias of judge must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learn from the judge participation in the case. CARTER v State 246 GA 328 271 SE 2d 475 (1980)

1) Criminal Justice Standard 6-1.7 of Special Functions of the Trial Judge also states the trial judge should recuse himself whenever the judge has any doubts as to his ability to preside impartially. Can reasonably be questioned. T.C. Shows Judge Walter Matthews was in fact under protection and his family from a plot plan of action on his life that the G.B.I Sheriff department made it clear informed Judge Walter Matthews that the petitioner was involved in putting the lives of Judge Walter Matthews and his family in danger. Stress strain urgency pressure nervous! Chief of the Sheriff department testified of the petitioner actions in this plot in Judge Walter Matthews Courtroom to Judge Walter Matthews this just months before petitioner courts dates, just weeks before motion for recusal for Judge Matthews. This showing doubts to his ability to preside impartially. Also showing his prejudice unfavorable opinion bias hatred for petitioner this proving prejudice. Prong 14-72 25.3 Duty of the trial judge!

The petitioner has shown repeatedly that the judge in this case should have recusal his self but using his power he forced my attorney to force petitioner to take a plea by not getting highland rivers records till day of trial.

STATE OF FACTS

Petitioner did file motion for recusal of Judge Walter Matthews in the Superior Court of Floyd County State of Georgia where Judge Walter Matthews his self denial of this motion was prejudice showing deficiency prong by Judge Walter Matthews. See Jenkins v State 268 GA 468 OP 491 SE 2d 54 (1997) also Judge Walter Matthews did knowing denial this motion with prejudice, hatred bias intolerance disregard of facts. See State v Fleming 245 GA 700 267 SE 2d 207 (1980) Mann v State 154 GA App 677 269 SE 2d 863 (1980) Riggins v State Carter v State 246 GA 328 271 SE 2d 475 (1980) Criminal Justice Standard 6-1.7 (Reasonably Questioned) Outcome of case would have been totally different according

TO ALL LAWYERS IN THIS CASE. JUDGE WALKER MATTHEWS DID OVERSTEP
BOUNDARIES AS A JUDGE. THIS SHOWING THE PETITIONER COULD NOT GET
A FAIR JUSTLY HONEST TRIAL. WITH JUDGE WALKER MATTHEWS THE
PETITIONER HAD NO CHANCE AT JUSTICE, FAIRNESS;
PETITIONER HAS AND CAN SHOW BY ATTORNEY G BERNAN THE WALKER
DUN TESTIMONY THROUGHOUT THE DURATION OF HIS REPRESENTATION
HE HAD A LACK OF ACCESS TO HIS CLIENT. THIS IS A DENYING THE
SIXTH AMENDMENT DUE PROCESS RIGHTS. § 7-1 CH 7 STATES THAT
ATTORNEY MUST HAVE REASONABLE ACCESS TO THE DEFENDANT EVEN IF HE
REMAINS IN CUSTODY AND THIS IS PARTICULARLY TRUE DURING TRIAL. THIS DID
CHANGE THE OUTCOME OF THE CASE. ATTORNEY THE WALKER TESTIFY
(T-1 p 2-5) HE VISITED WITH PETITIONER LESS THAN HE WANTED TO;
AND WISH HE WOULD HAVE BEEN ABLE TO SEE PETITIONER MORE;
(T-2 p 19-20) ATTORNEY COULD NOT PREPARE FOR TRIAL THIS WAY;
FURNISHING EFFECTIVENESS. THIS SHOWS DEFICIENT PERFORMANCE OR
INADVERTENT INEFFECTIVE ASSISTANCE OF COUNSEL.
ATTORNEY THE WALKER ARRANGED THAT HE HAD NEWLY REALIZED
PSYCHIATRIC INFORMATION FROM HIGH AND RIVERS. THAT WOULD CHANGE
THE OUTCOME OF THIS CASE, AND WOULD CLEAR THE PETITIONER.
ALL OF THE MOTIONS FOR CONTINUE, REFUSE WERE DENIED BY JUDGE
WALKER MATTHEWS. WITH NO OR VERY LITTLE ARGUMENT. ALL OF THE STATES
MOTIONS REWAIKED; THIS SHOWS PREJUDICE UNFAVORABLE HATED BIAS
TO THE PETITIONER; THIS NEW PSYCHIATRIC INFORMATION WAS A
CRITICAL SERVICE IN PREPARING FOR TRIAL, THIS INFORMATION
WAS A OPTION FOR RESOLUTION THAT COULD AND SHOULD HAVE HAD
A SUBSTANTIALLY AFFECTED ON THE OUTCOME OF THIS CASE;
ATTORNEY THE WALKER MADE A DEAL MOTION TO CONTINUE SAYING HE
HAD NOT HAD ENOUGH TIME PREPARING FOR TRIAL. THE THE WALKER
REQUEST WAS BASED ON LACK OF TIME FOR VISITATION AND NEW
PSYCHIATRIC RECORDS. THAT WOULD AFFECT THE CASE. THIS SHOWS
THE THE WALKER DID NOT PROVIDE ADEQUATE ASSISTANCE AT THIS
CRITICAL STAGE. THIS SHOWS THAT PETITIONER DUE PROCESS RIGHT TO
ADEQUATE ASSISTANCE AND EFFECTIVE COUNSEL HAVE BEEN VIOLATED.
AS SUCH A MANIFEST INJUSTICE HAS OCCURRED.

In addition to the lack of adequate counsel described above, Mr. McWhorter also provided inadequate counsel on September 16, 2013 on the date.

McWhorter further enticed his guilty plea by letting McWhorter make such a decision knowing this new psychiatric information showed McWhorter could not realize the effect this would carry; showing

ineffective assistance of counsel. Because of a lack of devotion to the interest of the McWhorter, Mr. McWhorter should have known that this decision on his part to let McWhorter make this decision was

fundamental miscarriage of justice. This shows that Mr. McWhorter failed to meet the objective standard of reasonably effective representation by his own admission as recited above herein. This shows the counsel's unprofessional errors, the result of the proceeding would have been different. The McWhorter was not able to make informed choices, and McWhorter would have made different and more informed decisions and his case would have been resolved with a different result. If he would have had effective assistance, Assistant District Attorney Kevin Johnson also presented additional allegations that were not included in the indictment, and which McWhorter was never charged, that was very prejudicial to the McWhorter. These allegations were unfairly prejudicial and irrelevant to the case. Mr. McWhorter did not object at these allegations. These allegations were very influential to the sentencing of the judge. The judge passed on a harsher sentence because of the additional allegations that was not included in the indictment. There is a substantial likelihood that the outcome of the sentence would have been vastly different. This shows bias intolerable disregard of the McWhorter's rights, under due process have been violated by the construed ambiguous sentence for a charge that did not exist. See

Petty v. Smith, 279 Ga. 273, 612 S.E.2d 276 (2005) Supporting fact

Wenkin v. State, 268 Ga. 468, 491 S.E.2d 54 (1997)

Trupin v. Todd, 268 Ga. 820 (2) 493 S.E.2d (1997)

Attorney G. Brian McWhorter testified that he should have objected to these overly prejudicial statements; but did not; proving his lack of representation regarding very important issue; further constitutes ineffective assistance of counsel under Fenton and Toure

IN EFFECTIVE ASSISTANCE OF COUNSEL UNDER FENTON AND TOURE

REPRESENTATION REGARDING VERY IMPORTANT ISSUE; FURTHER CONSTITUTES

THESE OVERLY PREJUDICIAL STATEMENTS; BUT DID NOT; PROVING HIS LACK OF

ATTORNEY G. BRIAN MCWHORTER TESTIFIED THAT HE SHOULD HAVE OBJECTED TO

TRUPIN V. TODD, 268 GA. 820 (2) 493 S.E.2D (1997)

WENKIN V. STATE, 268 GA. 468, 491 S.E.2D 54 (1997)

PETTY V. SMITH, 279 GA. 273, 612 S.E.2D 276 (2005) SUPPORTING FACT

AMBIGUOUS SENTENCE FOR A CHARGE THAT DID NOT EXIST. SEE

RIGHTS, UNDER DUE PROCESS HAVE BEEN VIOLATED BY THE CONSTRUED

VASTLY DIFFERENT. THIS SHOWS BIAS INTOLERABLE DISREGARD OF THE McWHORTER

SUBSTANTIAL LIKELIHOOD THAT THE OUTCOME OF THE SENTENCE WOULD HAVE BEEN

ALLEGATIONS THAT WAS NOT INCLUDED IN THE INDICTMENT. THERE IS A

THE JUDGE PASSED ON A HARSHER SENTENCE BECAUSE OF THE ADDITIONAL

ALLEGATIONS THAT WAS VERY INFLUENTIAL TO THE SENTENCING OF THE JUDGE

TO THE CASE. MR. McWHORTER DID NOT OBJECT AT THESE ALLEGATIONS

RETHONER. THESE ALLEGATIONS WERE UNFAIRLY PREJUDICIAL AND IRRELEVANT

RETHONER WAS NEVER CHARGED, THAT WAS VERY PREJUDICIAL TO THE

ALLEGATIONS THAT WERE NOT INCLUDED IN THE INDICTMENT, AND WHICH

ASSISTANT DISTRICT ATTORNEY KEVIN JOHNSON ALSO PRESENTED ADDITIONAL

WITH A DIFFERENT RESULT. IF HE WOULD HAVE HAD EFFECTIVE ASSISTANCE,

INFORMED DECISIONS AND HIS CASE WOULD HAVE BEEN RESOLVED

CHOICES, AND McWHORTER WOULD HAVE MADE DIFFERENT AND MORE

BEEN DIFFERENT. THE McWHORTER WAS NOT ABLE TO MAKE INFORMED

UNPROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDING WOULD HAVE

BY HIS OWN ADMISSION AS RECITED ABOVE HEREIN. THIS SHOWS THE COUNSEL'S

FAILED TO MEET THE OBJECTIVE STANDARD OF REASONABLY EFFECTIVE REPRESENTATION

FUNDAMENTAL MISCARRIAGE OF JUSTICE. THIS SHOWS THAT MR. McWHORTER

DECISION ON HIS PART TO LET McWHORTER MAKE THIS DECISION, WAS

INTEREST OF THE McWHORTER. MR. McWHORTER SHOULD HAVE KNOWN THAT THIS

INEFFECTIVE ASSISTANCE OF COUNSEL. BECAUSE OF A LACK OF DEVOTION TO THE

COULD NOT REALIZED THE EFFECT THIS WOULD CARRY; SHOWING

DECISION, KNOWING THIS NEW PSYCHIATRIC INFORMATION SHOWED McWHORTER

McWHORTER ENTICED HIS GUILTY PLEA, BY LETTING McWHORTER MAKE SUCH A

ALSO PROVIDED INADEQUATE COUNSEL ON SEPTEMBER 16, 2013 ON THE DATE.

IN ADDITION TO THE LACK OF ADEQUATE COUNSEL DESCRIBED ABOVE, MR. McWHORTER

2) AS WELL AS MEETING THE FIRST BRANCH OF STRICKLAND!

Closing facts

By Attorney G. Brian McWhorter own testify he was not ready for trial of the Petitioner. Forcing Petitioner to take a plea; Counsel did not ask for additional time, when the newly realized psychiatric information came in, which would have had a different outcome of the case!

Mr McWhorter testified he did not feel that he had enough time or access to the Petitioner, or effective represent the Petitioner; Counsel own testify he did not have access to Petitioner to lateral stages; New issues that Counsel had discovered regarding the Petitioner psychiatric treatment that Counsel said would have changed the outcome of Petitioner case!

Mr McWhorter was order by Judge to file a Motion, which Counsel did not do; Could have change the case!

Mr McWhorter did not object to additional allegations which the Petitioner was never charged or indicted for that was very prejudicial to the Petitioner and outcome of case! Mr McWhorter told Petitioner to take plea because he was unable to proceed competently in his representation of Petitioner; McWhorter failed to meet the objective standard of reasonably effective representation by his own admission

Judge Walter Matthews showed biased inferences disregard for facts. Showing prejudicial to the Petitioner by not ~~recusing~~ recusing his self. As shown in the law 3 times; Judge Walter Matthews harmed for Petitioner changed the outcome of this case.

Petitioner requesting a reversal of the Court of Appeals, Petitioner requests this as the appellants remedy for the denial of his sixth Amendment right to effective Counsel. Which the outcome of this case is substantially affected.

There is sufficient evidence of ineffective assistance of Counsel

Respectfully Submitted
William Mills

Hope this rises 1978 Nov 147
Rads will get 30453



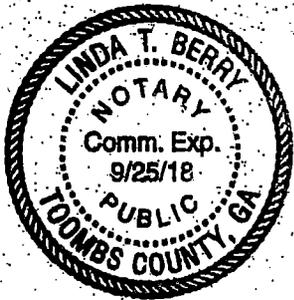
June 3
11/03/14

CERTIFICATE OF SERVICE

This is to certify that I have this day served a true and correct copy of the within and foregoing document(s) upon the party(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:

Clerk of Court of Appeals
47 Trinity Ave. SW
Suite 501
Atlanta Georgia 30334

This the *NOVEMBER* day of *3* 20*14*.



[Signature]

[Signature]
11/03/14

I NEED A STAMP FILE COPY OF THESE
MOTIONS AND THIS BRIEF BACK!

SENT TO BILL W. PHILLIPS
1978 CA HWY 147
REDSVILLE CA 90453

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 12, 2014

To: Mr. Michael Redford, Unit C03, Douglas County Jail, 8472 Earl D. Lee Boulevard, Douglasville, Georgia 30134

Case Number: _____ Lower Court: County Superior Court

Court of Appeals Case Number and Style: _____

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

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

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 12, 2014

To: Mr. Sherwin S. Perkins, GDC1200331 F-1 108-B, Johnson State Prison, Post Office
Box 344, Wrightsville, Georgia 31096

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

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals under your name.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. 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.
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- 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.
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For Additional information, please go to the Court's website at: www.gaappeals.us

State of Georgia

RECEIVED IN OFFICE
2014 NOV 10 PM 1:10

Appellate Court

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Sherwin Perkins - 1200331

CASE NO. OCGA 2235-1

VS

State of Georgia

RECEIVED IN OFFICE
2014 NOV 10 PM 1:09
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Appeal of Superior
Court Judgment on Clerical
Errors and Nunc Pro Tunc

Comes now the Movant in the above matter and
shows this Honorable Court as follows:

1.

Jurisdiction

This Court has jurisdiction over the matter
pursuant to O.C.G.A. § 9-11-60 paragraphs (d)(1)(2)(3);
and (F) and O.C.G.A. § 9-12-16 and O.C.G.A. § 17-9-4

These state that this motion may be brought at
any time and that there is no statute of limitations
as to the period of time same may be brought. O.C.G.A.
§ 9-11-60 (F) states: PROCEDURE, Time of Relief: A
Judgment void because of lack of jurisdiction
of the person or subject matter may be attacked
at any time;

Statement of Facts

Paragraph (d) states: Motion to set aside: A motion to set aside may be brought to set aside a judgment based upon.

(1) Lack of Jurisdiction over the Person or the Subject Matter

(2) Fraud, Accident or mistake on the acts of the Adverse party committed with negligence or fault of the Movant or

(3) A Non-Amendable defect which appears upon the face of the record or pleadings under this Paragraph, it is not sufficient that the complaint or other pleadings fails to state a claim upon which relief can be granted, but the pleadings must affirmatively show no claim existed.

O.C.G.A. § 17-9-4 states: Validity of Judgment rendered by Courts having no Jurisdiction of the Person or Subject Matter:

The Judgment of the Court having no Jurisdiction of the Person or Subject Matter or Void For Any other Reason or Cause is a Nullity and may be held in any Court when it becomes material to the interest of the parties to consider it.

O.C.G.A. § 9-12-16 states: Absent Jurisdiction, Judgment a Nullity:

Statement of Facts

The Subjoinder of a Court having no Jurisdiction of the Person or the Subject Matter or which is void for any other cause is a mere nullity and may be so held in any Court where it becomes material to the judgment of the Parties to consider it.

Petitioner. Avers he resided out of State during periods of time the indictment charges he committed crimes in the Superior Courts Jurisdiction. Additionally this movent Avers the statute of limitations had expired on numerous counts of Sexual child

Abuse committed in the indictment and the Court and prosecution violated the standards set up by the U.S. Supreme Court in their ruling in Stogner v. California, 156 L. Ed 713 in which the Court

conclude an identical statute to Georgia's and over- turned the conviction of the defendant. This movent Additionally Avers the Court in the foregoing manner and additionally that Georgia statutes that extend

the time periods for prosecution of Sexual offenses are in violation of the U.S. and Georgia Constitution. Petitioner also Avers his plea was not freely and voluntarily given and did not comply with

Georgia's Superior Court rule 33.8 and Boykin v. Alabama, 395 US 223, 243 (1969) as there does not appear

Statement of Fact

The defendant was sworn in before the plea was

taken and part of the transcript appear to be missing

which violates Boylston v. Alabanza, Id. Furthermore it

seems the defendant was not clearly advised of all of

his Boylston Rights. 1) A complete transcript showing the

defendant was sworn in and advised of a) The

provision against compulsory self-incrimination 3) The

right to trial by jury 4) The right to confront ones

accusers.

The Court reversed the conviction in Wilson v. Henry,

288 A 779 for these very same reasons. Also see

Boyle v. Smith, 979 GA 611 in which that court upheld

the habeas when the trial court failed to inform the

defendant of his 3 Boylston Rights. Also Turner v.

State, 901 GA 115 119, Fulton County, D. No. 1893,

5/18/93, Decided June 20, 2011.

Moynihan asserts a clerical error and void sentence

occurred in his case and the trial court failed

jurisdiction to put him on trial pursuant to the

provisions and following statutes and case law

According to the Court Records in this case the defendant

was arrested at his home without a warrant and Bryant

circumstances did not exist and therefore his initial

arrest was illegal and held in Foy v. New

York, 445 US 373, 63 LFR 20639, 100 S Ct 1371

State ment of Facts

In which the U.S. Supreme Court held that a

defendant may not be arrested in his home without

a WARRANT when no exigent circumstances exist. The

defendant was not advised of his Constitutional Rights

Under MIRANDA v. ARIZONA.

When this type error occurs it requires the

court to vacate the guilty plea pursuant to

LYNN v STATE 289 QASGA, 714 S.E.2d 574 (2011) see

also GAPP v. AULT, 229 GA 873;

2.

Novak shows this Court that transcripts of the

plea show the defendant was not properly sworn and

questioned nor advised properly of his rights in

accordance with Superior Court Rule 33.8 and thusly

the plea was not freely and voluntarily given. The record

further shows the alleged victims failed to testify

before the Grand Jury, thus the only testimony

before the Grand Jury was hearsay from a

ret detective. When the only testimony before

the Grand Jury was hearsay, the Courts have

held the indictment must be dismissed as held

in U.S. v. Estepa and Vasquez, 471 F.2d 1132 (CA2

in 1972). More importantly the Court failed to

comply with Superior Court Rule 33.8 and when

this occurs the conviction must be set aside in

Statement of Facts

Accordance with the Ruling of Knight v. Silver, 269 CA 814, 504 SE2D 686, 98 FDR 3180; Bowers v. Moore, 266 CA 893, 471 S. 520 869 (1996); BOYLKIN v. ALABAMA, 395 U.S. 238, 89 SCT 1709, 23 L ED 2D 274 (1969).

3

The defendant's initial statements nor his plea cannot be used against him because it will violate the standard of the Fruit of the poisonous tree under Wong v. U.S. Under Wong Sun v. U.S., 371 US 471, 487-488 (1963) The Court held that "physical evidence or verbal statements from unlawful seizure inadmissible except when sufficiently attenuated from seizure." In the case at bar the defendant was illegally arrested at his home without being advised of his MIRANDA rights.

The police had no warrants nor exigent circumstances to arrest the defendant at his home and as such violated Payton v. New York, 445 U.S. 573, 590 (1980) and Ky. v. King, 131 SCT 1849, 1856 (2011) (Search and seizure inside a home without a warrant is presumptively unreasonable). Even if the defendant is advised his MIRANDA rights later after his arrest, the

Statement of Facts

Custodial Statement of Confession is Subject to the
Presumption Rule and must be excluded. In State v.
Cullum, 336 Ga App 238, 232 (1), 511 S.E. 2d 591 (1999),
The Court held "If there is a causal connection
between an illegal arrest and a custodial statement
of Confession then the presumption rule must be
Applied to preserve compliance with the 4th
Amendment."

4.

Mohrly Avers he Resided out of State during periods
of time the indictment charges he committed crimes in
the Superior Courts Jurisdiction and as such manner
Mohrly was unlawfully charged and same can be proven
by Mohrly's employment records.

5.

Mohrly Avers the Georgia Statutes on Sexual Offenses
Related to Superior Victims Violate the Standards set
up by the U.S Supreme Court in its rulings in
Stogson v. California, 156 L Ed 2d 713 in which the
Court considered the identical statute to Georgia
and interpreted the conviction of the Defendant

Statement of Facts

6.

MOVANT AVERNS THE PROSECUTOR USED GA'S UNLAWFUL STATUTES TO EXTEND THE STATUTE OF LIMITATION FOR PROSECUTION OF THE SEXUAL OFFENSES IN THIS CASE IN VIOLATION OF THE US CONSTITUTION, GA'S CONSTITUTION, AND STOGNER, JR.

7.

MOVANT FILED A MOTION TO WITHDRAW HIS GUILTY PLEA ON SEPTEMBER 8, 2005 AND AGAIN ON OCTOBER 22, 2005. ACCORDING TO THE CLERK'S DOCKET, HOWEVER, THE RECORD DOES NOT SHOW THAT THE COURT EVEN RULED ON THE MOTIONS AND MOVANT MAY RELY ON SAID MOTION TO ARGUE THAT SAME ARE STILL PENDING. MOVANT AVERNS SAME IS A CLERICAL ERROR AND THE COURT SHOULD NOW RULY ON SAID MOTIONS AND GRANT SAME AS

THE STATE IS NOT AND ALWAYS HAS BEEN AWARE THAT SAID MOTIONS HAVE BEEN PENDING SINCE ENTRY OF THE PLEA ON 08/10/05.

8.

MOVANT AVERNS TRIAL COURT HAD NO JURISDICTION TO ACCEPT DEFENDANT'S PLEA AND SENTENCE HIM. CITING; BERNETT V STATE 268 GA 849 (499 S.E.2D 330) (1998), THE RECORD WILL SHOW THAT MOVANT WAS NOT ADVISED OF HIS RIGHTS BEFORE SPEAKING IN OPEN COURT. HIS RIGHTS UNDER BOOTH V. ALABAMA OF COMPULSORY SELF-INCARCINATION WERE VIOLATED AS HE WAS BEING A WITNESS AGAINST HIMSELF.

Statement of Facts

8. (Cont)

Thusly violating MOVANT'S RIGHTS OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW, citing *Boykin v. ALABAMA*, 383 U.S. 238, 89 S.Ct. 1409, 73 L.Ed.2d 20274 (1969); *Johnson v. State*, 286 GA 1132 (687 S.E.2D 833) (2010).

9.

MOVANT AVERS THAT THE RECORD WILL SHOW THAT HE WAS FORCED TO INITIAL AND SIGN DOCUMENTS HE COULD NOT READ. MOVANT WAS NOT ALLOWED TO ~~BRING~~ BRING HIS EYEGLASSES INTO THE COURTROOM BY SECURITY.

10.

MOVANT AVERS THAT THE RESPONDENT FAILED TO SPECIFY THE DATES THAT THE ALLEGED SEXUAL ABUSE AND AGGRAVATED ASSAULT OFFENSES OCCURRED. THE ESSENTIAL ELEMENTS OF AGGRAVATED ASSAULT ON ROBIN WALKER ARE NOT IDENTIFIED, NO DATE, TIME, OR PLACE ARE GIVEN. THE CHILD MOLESTATION AND RAPE CHARGES APPEAR TO HAVE HAPPENED (OCCURRED) ON THE SAME DATE WITH THE SAME LANGUAGE IMPUTED FROM ONE CHARGE TO ANOTHER, citing; *Blackmon v. State*, 277 GA App. 851 (2005).

Statement of Facts

11.

Trial Court cites *Lewis v. State*, 2004 GA App 796 (1992) in its' denial of Movant's Motion

stating that a guilty plea waives the Movant's Motion for the judgment. However in the case of Smith

N. HARRIS, 266 GA 513 (1993) 8, E 20198 (1993),

The Court states otherwise "A plea of guilty

waives all defenses other than that the

judgment charges no crime. Judgment fatally

defective and void. Violation of 14th Amend-

-ment. Such is the case of Movant as the

GA Board of Pardons and Parole quoted

on 02/12 that "several of the Movant's

charges were in fact invalid."

"One invalid charge in an indictment

renders the entire bill making it 'imperfect'

So Movant pled guilty to charges/offenses

that did not exist. Indictment failed

to charge a crime.

12

Trial Court states that Clerk of Court has no record of Movant's motion to withdraw plea. That

was docketed 07/08/02. The Asst. Atty General

DAVID A. ZISOLD AND FEDERAL MAGISTRATE JUDGE

GARY N. BAILEY state of record was in 78 US L.

87254. SEE STATE SUPPLEMENTAL REPORT, P. 111115

W/AMMORS CASE NO 1054 U.S. Supreme Court.

(10)

Statement of Facts

13.

The State Board of Pardons and Paroles stated in 2014 concerning the case No. DCA 2013-1 that several of the charges in the indictment were in "fact invalid" making the Mowatt eligible for parole.

Fact is a separate Department of the Criminal Justice System that determines the release of inmates has thoroughly investigated the matter and came to the conclusion that several charges were invalid.

This makes the entire indictment defective and trial court was without jurisdiction to accept the indictment from the Grand Jury as it was not a true bill. Trial court was without jurisdiction to try, convict and sentence Mowatt.

Clegg v. State, 299 GA 834, 732 S.E.2d 56 (2012); Smith v. Handrick, 266 GA 54 (3) (464 S.E.2d 198 (1995)); Riley v. Garrett, 219 GA 345 S.E.2d 367 (1963),

14.

State failed to charge Mowatt with the full "METS" "Red" Necessary to commit a crime for the charge of Aggravated Assault. Citing! *Henderson v. State, 287 GA 334, 339 (697 S.E.2d 798) (2010).*

In this particular Area the State failed to state claim. A Non Amendable defect which appears on the face of the Record on Pleadings. O.C.G.A. § 17-9-4

Statement of Facts

15.

Mouatt Avers that the statute of limitations was accordingly invalidating at least one of the sexual abuse charges in the indictment thereby requiring all charges in the indictment be set aside due to prosecutorial misconduct and error. "The prosecutor is not allowed to stack invalid charges even by mistake"

In the Mouatt case, prosecutor chose to ignore the law and presented invalid charges to the Grand Jury anyway.

16.

Mouatt Avers that several of state's accusers to mouatt's alleged offenses failed to appear before the Grand Jury and prosecution presented Hersey testimony from police officers.

This violated the Mouatt's 14 amendment rights of equal protection of the law.

17.

Trial Court lacked jurisdiction to try, convict and sentence Mouatt. "What a Court has before of a matter unlike it has no jurisdiction of the subject matter, no legal judgment can be rendered except

one of dismissal, (1988) O.G.A. 5550330 by 9(a) & Bennett v. State, 268 GA 819 (1998) (1998) for any other

reason a mere Nulity. O.G.A. 5550330 by 9(a) & Bennett

v. BAVAH; BROWN & STATE

Statement of Facts

18

MOUANT AVERES THAT TRAIL COURT CHOSE TO

IGNORE THE CHARGES OF FORGERY, TRUTHFULLY THEFT

AND THEFT BY THE STATE'S WITNESS AGAINST

THE MOUANT. THESE CHARGES WERE COMMITTED WHILE

MOUANT WAS INCARCERATED IN DEKALB COUNTY

SAID PRIOR TO TRAIL DATE BETWEEN 03/09/03 TO 08/29/03

MOUANT BROUGHT TO THE ATTENTION OF THE TRAIL

COURT 08/15/03 A CONFLICT OF INTEREST AS HIS

PUBLIC DEFENDER WAS ADVISING THE STATE'S WITNESS

TO FILE ADDITIONAL CHARGES AND CIVIL ACTION AGAINST

NON CLIENT. DEFENSE COUNSEL ADMITTED UNDER OATH

(SEE STATE HABEAS PETITIOIN V NELSON P 36 L. 3-13)

THAT SHE ASSURED THE STATE'S WITNESS FREEDOM

FROM PROSECUTION.

TRAIL COURT AND PUBLIC DEFENDER ENTERED

INTO A CONSPIRACY WITH THE STATE'S WITNESS

VIOLATING OCGA'S 16-16-20 AND THE RICO ACT

16-14-1. THE COURT AND ATTORNEY HAD A

CONSTITUTIONALLY IMPOSED DUTY AS OFFICERS

OF THE COURT TO REPORT ANY CRIMINALS

ACTIVITY TO THE PROPER AUTHORITIES. THEY CHOSE

TO CONCEAL THESE FACTS THUSLY VIOLATING

MOVANTS 14 AMENDMENT RIGHTS OF EQUAL

PROTECTION OF THE LAW.

Statement of Facts

19.

It is absolutely certain that the Honorable Court did not have jurisdiction to try the Movant in this indictment, see; *Wentworth v. State*, 34 S. Ct. 453; *Griffis v. Griffis*, 193 S. Ct. 620; *Riley v. Griffis*, 133 S. Ct. 367.

Accordingly this Honorable Court should in the interest of Justice, should not disregard its jurisdiction with respect to the Movant's attack upon his indictment and should be declared "Void."

Furthermore, the present situation is a clear cut case of a Void Conviction.

The principle function of the Due process of Law is to prevent unjustified loss of Liberty. It is a relationship, 358, 369, with that in mind it is sober to conclude that a break down in a criminal proceeding as to the judgment of a Court which was without the authority to try the Movant is sufficient to render a conviction invalid.

Conclusion

For all the above reasons Movant's appeal should be granted and his conviction and sentence should be declared void of this indictment.

Wherefore, The Movant prays that this Honorable Court grant him the relief to which he is entitled in the matter.

Respectfully Submitted

This 27 day of ~~2014~~ October 2014

Sharon Hedins

State of Georgia

Appellate Court

Sherwin Phillips - 1300331

Case No. 05CA0735-1

vs

State of Georgia

Appeal of Superior

Court Judgment on Clerical

Errors and Nurse Practice

Courts now the Movant in the above matter and

Shows this Honorable Court as follows:

1

Jurisdiction

This Court has Jurisdiction over the matter

pursuant to O.C.G.A. § 9-11-60 paragraphs (1)(1)(2)(3),

and (1) and O.C.G.A. § 9-12-16 and O.C.G.A. § 17-9-4

These State that this motion may be brought at

Any time and that there is no statute of limitations

as to the period of time same may be brought, O.C.G.A.

§ 9-11-60 (1) State: Procedure, Time of Relief: A

Supplement No. 10 because of lack of Jurisdiction

of the Person or Subject matter may be attacked

at Any time!

Statement of Facts

Paragraph (d) states: Motion to set aside: A motion to set aside may be brought to set aside a judgment based upon

(1) lack of jurisdiction over the person or the subject matter

(2) Fraud, accident or mistake on the acts of the adverse party committed with negligence or fault of the movant or

(3) A non-amendable defect which appears upon the face of the record or pleadings under this paragraph, it is not sufficient that the complaint or other pleadings fails to state a claim upon which relief can be granted, but the pleadings must affirmatively show no claim existed.

O.C.G.A. § 17-9-4 states: Validity of judgment rendered by courts having no jurisdiction of the person or subject matter:

The judgment of the court having no jurisdiction of the person or subject matter or void for any other reason or cause is a nullity

and may be held in any court where it becomes material to the interest of the parties to consider it.

O.C.G.A. § 9-11-16 states: Absent jurisdiction, judgment a nullity:

Statement of Facts

The Defendant of a Court having no jurisdiction of the person or the subject matter on which is void for any other cause is a mere nullity and may be so held in any Court where it becomes material to the indictment of the parties to consider it.

Petitioner Avens he resided out of state during periods of time the indict charges he committed crimes in the Serbian Courts Jurisdiction. Additionally this mount Avens the statute of limitations had expired on numerous courts of sexual child abuse committed in the indictment and the court

And prosecutor violated the standards set up by the U.S. Supreme Court in their ruling in Stogers v. California, 156 L.E.D. 713 in which the court considered an identical statute to Georgia's and over-

turned the conviction of the defendant, this amount Additionally Avens the Court in the foregoing manner and additionally that Georgia states that extend the time periods for prosecution of sexual

offenses are in violation of the U.S. and Georgia Constitution. Petitioner also Avens his plea was not freely and voluntarily given and did not comply with Georgia's Superior Court Rule 33.8 and Boykin v. Alabama, 395 U.S. 223, 213 (1969) as there does not appear

the defendant was sworn in before the plea was taken and part of the transcript appear to be missing which violates Boykin v. Alabama, Id. Furthermore it seems the defendant was not clearly advised of all of his Boykin rights. 1) A complete transcript showing the defendant was sworn in and advised of 2) the privilege against compulsory self-incrimination. 3) The right to trial by jury; 4) The right to confront one's accusers.

The Court reversed the conviction in *Wilson v. Kemp*, 288 Ga 729 for these very same reasons. Also see *Bright v. Smith*, 274 Ga 611 in which that Court upheld a habeas when the trial court failed to inform the defendant of his 3 Boykin rights. Also *Truman v. State*, 2011 Ga L 159, Fulton County D. Sept 18 2013; 314 O 233, Decided June 20, 2011.

MOVANT ASSERTS A CLERICAL ERROR AND VOID SENTENCE OCCURRED IN HIS CASE AND THE TRIAL COURT LACKED JURISDICTION TO PUT HIM ON TRIAL PURSUANT TO THE FORFEIT AND FOLLOWING STATUTES AND CASE LAW.

1.
According to the Court Records in this case the defendant was arrested at his home without a warrant and exigent circumstances did not exist and therefore his initial arrest was illegal. ~~ATL~~ AS HELD IN *Reyes v. New York*, 445 US 373, 63 LER 20639, 100 S Ct 1371

Statement of Facts

In which the U.S. Supreme Court held that a defendant may not be arrested in his home without a warrant when no exigent circumstances exist. The defendant was not advised of his constitutional rights under *MIRANDA V. ARIZONA*.

When this type error occurs it requires the court to vacate the guilty plea pursuant to *TYNER V STATE*, 289 CA 592, 714 SE. 2d 577 (2011) SEE ALSO *Capps V. AULT*, 229 CA 873;

2.

MOTION shows this Court that transcripts of the plea show the defendant was not properly sworn and questioned nor advised properly of his rights in accordance with Superior Court Rule 33.8 and thusly the plea was not freely and voluntarily given. The record further shows the alleged victims failed to testify before the Grand Jury, thus the only testimony before the Grand Jury was hearsay from a deaf detective. When the only testimony before the Grand Jury was hearsay, the Courts have held the indictment must be dismissed as held in *U.S. V. ESTAPA AND VAZQUEZ*, 471 F.2d 1132 (CA10 Cir 1972). More importantly, the Court failed to comply with Superior Court Rule 33.8 and when this occurs the conviction must be set aside in

Statement of Facts

Accordance with the RULING OF Knight v. Silver, 269 GA 814, 504 SE 2D 686, 98 FDR 3180; Bowers v. Moore, 266 GA 893, 471 S. E 2D 869 (1996); BOYDIN V. ALABAMA, 395 U.S. 238, 89 SCT 1709, 23 L ED 2D 274 (1969).

3

The defendant's initial statements nor his plea cannot be used against him because it will violate the standard of the FRUIT OF THE POISONOUS TREE UNDER Wong v U.S. UNDER Wong Sun v U.S., 371 US 471, 487-488 (1963) The Court held that "physical evidence or verbal statements from UNLAWFUL SEIZURE INADMISSABLE EXCEPT WHEN SUFFICIENTLY ATTENUATED FROM SEIZURE." IN the CASE AT BAR the defendant was illegally arrested at his home without being advised of his MIRANDA rights.

The police had no WARRANTS NOR exigent circumstances to arrest the defendant at his home and as such violated Payton v. New York, 408 U.S. 573, 590 (1980). AND Ky. v. King, 131 SCT 1849, 1854 (2011) (SEARCH AND SEIZURE INSIDE a home WITHOUT a WARRANT IS PRESUMPTIVELY UNREASONABLE). EVEN IF the defendant IS advised his MIRANDA rights LATER AFTER his arrest, the

Statement of Facts

Custodial Statement of Confession is Subject to the
Miranda Rule and must be excluded in State v.
Cullum, 936 P.2d 382 (1997), 511 S.E.2d 591 (1997).
The Court held "If there is a causal connection
between an illegal arrest and a custodial statement
of confession then the exclusionary rule must be
applied to ensure compliance with the 4th
Amendment."

4.

Morath Avers he Resided out of State during periods
of time the indictment charges he committed crimes in
the Superior Courts Jurisdiction and as such manner
Movants unlawfully changed and same can be proven
by Movants employment records.

5.

Morath Avers the Georgia statutes on Sexual Offenses
Related to Sexual Victims violate the standards set
up by the US Supreme Court in its rulings in
Stogson v. California, 154 L.Ed 2d 713 in which the
Court considered an identical statute to Georgia
A and Avers Avers the conviction of the Defendant

Statement of Facts

11.

Trial Court cites *Lawson v. State*, 204 GA App 796 (1) (1992) in its denial of Mouant's motion stating that a guilty plea waives the Mouant's defenses to the indictment. However in the case of *Smith v. Hardwick*, 266 GA 541(3) (464 S.E.2D 198 (1993), the Court states otherwise "A plea of guilty waives all defenses other than that the indictment charges no crime. Indictment fatally defective and void, violation of 14th Amendment. Such is the case of Mouant as the GA Board of Pardons and Parole quoted on 07/12/12 that several of the Mouant's charges were in fact invalid.

"One invalid charge in an indictment taints the entire bill making it imperfect so Mouant pled guilty to charges/offenses that did not exist. Indictment failed to charge a crime."

12

Trial Court states that Clerk of Court has no record of Mouant's motion to withdraw plea that was docketed 09/08/03. The Asst. Atty General David A. Zisch and Federal Magistrate Judge Ceralyn Brill state other cases in 78 U.S.C. § 5925c. See state Supplemental Brief.

Benny Martin
B.M. MARTIN & ASSOCIATES, P. C.
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JASPER, GA 30143-1558

A14A1439
2011R63

**FOURTH DIVISION
DOYLE, P. J.,
MILLER and DILLARD, JJ.**

**NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
days of the date of decision to be deemed timely filed.
<http://www.gaappeals.us/rules/>**

November 13, 2014

In the Court of Appeals of Georgia

A14A1439. SALLEE v. THE STATE.

MILLER, Judge.

Following a jury trial, Mark Thomas Sallee was convicted of one count of insurance fraud (OCGA § 33-1-9).¹ In an out-of-time appeal, Sallee appeals from the denial of his motion for new trial, contending that (1) insufficient evidence supported his conviction; (2) the trial court erred in denying his general and special demurrers and his plea in abatement; (3) there was a fatal variance in the evidence; (4) the trial court erred in denying his motion for a mistrial based on juror misconduct; (5) the trial court improperly commented on the evidence; (6) Sallee was selectively and vindictively prosecuted; (7) the trial court was biased; and (8) Sallee's trial counsel

¹ The jury acquitted Sallee of a second count of insurance fraud. Following his conviction, attorney Sallee was disbarred.

was ineffective. This Court discerns no error. For the reasons that follow, we affirm Sallee's conviction.

Viewed in the light most favorable to the conviction,² the evidence shows that from 1995 to 2005, home builder John David Grice was married to Kim Grice Pack. In 2005, Grice purchased a 25-acre lot in Cutcane Ridge subdivision in Mineral Bluff for development and subsequently conveyed Lot 5 ("the Property") to Pack. Pack obtained a loan from Home Bank and Grice built a house on the Property. Pack also obtained a builder's risk insurance policy on the Property from Zurich Assurance Company of America ("Zurich").

In 2006, after Grice and Pack divorced, Pack entered into a sales contract to sell the Property to Grice. On Friday, August 4, 2006, Pack sold the Property to Grice for \$180,000. Pack paid off her Home Bank loan and earned a profit of approximately \$15,000.³ Grice financed the purchase with a new loan from Home Bank, but he did not obtain any insurance on the Property.

² *Jackson v. Virginia*, 443 U. S. 307 (99 SCt 2781, 61 LE2d 560) (1979).

³ On August 16, 2006, Home Bank issued a cancellation and satisfaction, noting that Pack's 2005 loan had been paid in full.

Attorney Michael Birchmore, representing Home Bank, handled the closing. At closing, Pack executed a warranty deed, Grice executed a security deed, and both Pack and Grice signed a settlement statement.

Two days later, on August 6, 2006, a fire on the Property destroyed the house. The next day, Grice told Birchmore about the fire and asked Birchmore to delay recording the deed because Grice did not have insurance on the Property. In a letter to Home Bank, Birchmore proposed recording the deed the following day and he sent the documents to be recorded on August 8. The deeds, however, were not filed and the original deed was lost. Shortly after the fire, Pack contacted Zurich to see if the fire was covered by her builder's risk policy but Zurich determined that Pack would not be able to file a claim since she had sold the Property prior to the fire.

Grice retained Sallee to represent him in a malpractice claim against Birchmore for failing to ensure that Grice had insurance on the property at the time of the sale. Grice told Sallee that he had executed a security deed and Pack had executed a warranty deed at the August 4, 2006 closing, and Pack had been paid approximately \$15,000. Sallee ultimately decided not to pursue any claims against Birchmore, however, Sallee advised Grice to make a claim against Pack's insurance policy

because the closing had not been completed and the deed to the Property, showing that Grice was the owner, had not yet been recorded.

Grice and Sallee then approached Pack and told her that they had determined that because the deeds had not been filed, Pack could file an insurance claim on the Property. Grice offered Pack \$5,000 for her part in filing the claim. In October 2007, Sallee submitted an insurance claim to Zurich on Pack's behalf.

In March 2008, Sallee filed a bad faith lawsuit against Zurich on Pack's behalf. Although Sallee knew that Pack had received approximately \$15,000 at closing, he told Zurich that Pack had not been paid for the sale of the property.

In December 2008, Sallee sent Pack a proof of loss statement to be filed with Zurich, claiming a loss of approximately \$118,000. Sallee told Pack that he had found a loophole, the insurance claim was a windfall, and she could collect "free money" because Birchmore had not handled the closing properly. On December 8, 2008, Pack signed the proof of loss statement and Sallee submitted the statement to Zurich.

Pack later told Grice that she wanted to drop the claim because she had lied. Nonetheless, in December 2008, Zurich issued a check for just under \$118,000 to Pack and Sallee. Sallee never told Pack that he had received the check and Pack never signed the check. Sallee cashed the check but later returned approximately \$77,000

to Zurich, saying that he could not disburse the funds. Sallee kept the remainder of the money, approximately \$40,000, as his fee.

The jury found Sallee guilty on one count of insurance fraud based on the submission of Pack's proof of loss statement.

1. Sallee contends that the evidence was insufficient to convict him of insurance fraud because there was no evidence that he made any affirmative misrepresentations, it was a matter of public record that Pack no longer owned the property at the time of the fire, and the insurance company did not rely on any alleged misrepresentation when paying Pack's claim. We discern no error.

A person commits the crime of insurance fraud by making or aiding in the making of a false or fraudulent written statement or representation of any material fact or by filing a claim "for the purpose of procuring or attempting to procure the payment of any false or fraudulent claim or other benefit by an insurer[.]" OCGA § 33-1-9 (a). Furthermore, "[e]very person concerned in the commission of a crime is a party thereto and may be charged with and convicted of commission of the crime." OCGA § 16-2-20 (a). Although "mere presence at the scene of the commission of a crime is not sufficient evidence to convict one of being a party thereto, presence, companionship, and conduct before and after the offense are circumstances from

which one's participation in the criminal intent may be inferred.” (Citations and punctuation omitted.) *McWhorter v. State*, 198 Ga. App. 493 (1) (402 SE2d 60) (1991).

Pack's interest in the property terminated when she sold it. See *Roach v. Ga. Farm Bureau Mu. Ins. Co.*, 173 Ga. App. 229, 230 (325 SE2d 797) (1984) (insured's interest in property terminates when property is sold). Nevertheless, Sallee approached Pack after the sale and encouraged her to file an insurance claim on the Property. Sallee knew that Pack's loan on the Property had been paid off on August 4, 2006 at the closing but nonetheless filed Pack's signed proof of loss statement with Zurich on December 8, 2008, in which she falsely claimed a loss of approximately \$118,000 under her insurance policy.

While Sallee argues that there was no insurance fraud because an employee of Zurich testified that Zurich did not rely on Sallee's misrepresentations when it paid Pack's claim,⁴ reliance is not an element of criminal insurance fraud. “Rather, the State must prove that the defendant made a false statement for the purpose of procuring or attempting to procure payment of a false or fraudulent claim. Once a

⁴ A Zurich employee testified that the company “made a business decision” to pay Pack's claim because it was facing the bad faith lawsuit filed by Sallee.

defendant makes a false statement for such purpose, the crime is complete, and it is irrelevant whether or not the claim is subsequently paid.” (Punctuation and footnote omitted.) *Callaway v. State*, 247 Ga. App. 310, 314 (1) (b) (542 SE2d 596) (2000). Thus, it matters not whether Zurich relied on Sallee’s misrepresentation in deciding whether to pay Pack’s claim. Given the evidence set forth above, a jury was authorized to conclude that Sallee aided Pack in making a false or fraudulent written statement for the purpose of procuring or attempting to procure the payment of a false claim, which was all that was required to convict Sallee of insurance fraud. See *id.*

2. Sallee contends that the trial court erred in denying his general and special demurrers. We discern no error.

An accused may challenge the sufficiency of an indictment by filing a general or special demurrer. A general demurrer challenges the sufficiency of the *substance* of the indictment, whereas a special demurrer challenges the sufficiency of the *form* of the indictment. An indictment is sufficient to withstand a general demurrer if an accused would be guilty of the crime charged if the facts as alleged in the indictment are taken as true; however, if an accused can admit to all of the facts charged in the indictment and still be innocent of a crime, the indictment is insufficient and is subject to a general demurrer.

An indictment is sufficient to withstand a special demurrer if it contains the elements of the offense intended to be charged, and sufficiently

apprises the defendant of what he must be prepared to meet, and, in case any other proceedings are taken against him for a similar offense, whether the record shows with accuracy to what extent he may plead a former acquittal or conviction.

(Citations and punctuation omitted.) *Raybon v. State*, 309 Ga. App. 365, 366 (710 SE2d 579) (2011). We review a trial court's ruling on a general or special demurrer de novo in order to determine whether the allegations in the indictment are legally sufficient. See *State v. Marshall*, 304 Ga. App. 865 (698 SE2d 337) (2010); see also *State v. Corhen*, 306 Ga. App. 495, 501 (4) (700 SE2d 912) (2010).

As to Count 2, the indictment alleged that on December 8, 2008, in violation of OCGA § 33-1-9, Sallee, Grice and Pack, individually and as parties concerned in the commission of crime

knowingly [made] and [aided] in the making of a fraudulent representation of material fact, to wit: Kim Grice [Pack] signed a Sworn Proof of Loss Statement claiming she had a loss of \$117,849.82, a written statement, relating to a policy of insurance, for the purpose of procuring the payment of a fraudulent claim by Zurich Insurance Company[.]

(a) General demurrer.

Sallee contends that the indictment was defective because it failed to contain all of the essential elements of insurance fraud, specifically, the fraudulent representation of a material fact in violation of a specified penal statute. An indictment is sufficient if “it states the offense in the statutory language or so plainly that the nature of the offense may be understood by the jury and each of the named defendants would be guilty of the crime charged if the facts as alleged in the count are taken as true.” *Corhen*, supra, 306 Ga. App. at 501 (4); see also OCGA § 17-7-54 (a).

Here the indictment specifically charged Sallee in Count 2 of violating OCGA § 33-1-9 and further indicated, tracking the statute’s own language, that the fraudulent misrepresentation was Pack’s statement that she had suffered a loss of \$117,849.82. Sallee would be guilty of insurance fraud if the facts alleged in the indictment were taken as true. Accordingly, the indictment was sufficient to withstand a general demurrer.⁵ See *State v. Horsley*, 310 Ga. App. 324, 325-326 (2) (714 SE2d 1) (2011) (reversing trial court’s grant of general demurrer where indictment tracked the language of the applicable statute and plainly stated the allegations).

⁵ For the same reason, we reject Sallee’s contention that the trial court erred in denying his plea in abatement because the indictment failed to allege a fraudulent claim in violation of a specified penal statute.

(b) Special demurrer.

Sallee also contends that the trial court erred in denying his special demurrer because the indictment did not identify a particular fraudulent claim. The indictment specifically identified the fraudulent statement as Pack's December 8, 2008 proof of loss statement. The indictment was sufficient to withstand a special demurrer because it stated the elements of the offense, apprised Sallee of the charges against him so that he could prepare his defense, and protected Sallee against subsequent prosecutions for the same offense. See *State v. Marshall*, 304 Ga. App. 865, 866 (698 SE2d 337) (2010).

3. Sallee contends that there was a fatal variance in the evidence because the indictment alleged that Sallee assisted Pack in making a fraudulent representation when she signed the sworn proof of loss statement but the State argued at trial that Sallee committed insurance fraud when he failed to correct Pack's misstatement. We do not agree.

Our courts have departed from an overly technical application of the fatal variance rule, focusing instead on materiality. The true inquiry, therefore, is not whether there has been a variance in proof, but whether there has been such a variance as to affect the substantial rights of the accused. It is the underlying reasons for the rule which must be served: 1) the allegations must definitely inform the accused as to the charges

against him so as to enable him to present his defense and not to be taken by surprise, and 2) the allegations must be adequate to protect the accused against another prosecution for the same offense. Only if the allegations fail to meet these tests is the variance “fatal.”

(Citation omitted.) *Hernandez v. State*, 319 Ga. App. 876, 878 (1) (738 SE2d 701) (2013).

Here, as discussed above, the indictment adequately apprised Sallee of the charges against him, did not mislead him as to the charges he faced, and adequately set forth the allegations in a manner to protect him against subsequent prosecutions for the offense charged. See *Hernandez*, supra, 319 Ga. App. at 878 (1). Moreover, the evidence adduced at trial was sufficient to sustain his conviction and consistent with the allegations in the indictment. Specifically, the evidence showed that Sallee assisted Pack in making an affirmative fraudulent representation when she signed the sworn proof of loss statement claiming that she suffered a loss, when in fact she had not. Accordingly, Sallee has not shown that a variance in the evidence, if any, affected his substantial rights.

4. Sallee contends that the trial court erred in denying his motion for a mistrial based on juror misconduct.⁶ We disagree.

“When irregular juror conduct is shown, there is a presumption of prejudice to the defendant, and the prosecution carries the burden of establishing beyond a reasonable doubt that no harm occurred. However, in order for juror misconduct to upset a jury verdict, it must have been so prejudicial that the verdict is deemed inherently lacking in due process.” (Punctuation and footnotes omitted.) *Holcomb v. State*, 268 Ga. 100, 103 (2) (485 SE2d 192) (1997). “The decision whether to remove a juror from a panel lies within the sound discretion of the trial court and will not be overturned absent an abuse of that discretion.” (Citation omitted.) *Tolbert v. State*, 300 Ga. App. 51, 53 (2) (684 SE2d 120) (2009). This Court also reviews the denial of a mistrial for abuse of discretion. *Watson v. State*, 289 Ga. 39, 42 (7) (709 SE2d 2) (2011).

⁶ Sallee also contends that the trial court erred in not granting a mistrial based on the fact that Sallee’s trial occurred before a local election, which Sallee argues improperly influenced the jury. Sallee does not specify how the upcoming local election affected the jury. Moreover, since Sallee did not seek a mistrial on this basis at trial, he has waived the issue. “Where an entirely different objection or basis for appeal is argued in the brief which was not presented at trial we will not consider that basis as we are limited to those grounds presented to and ruled upon by the trial court.” (Citation and punctuation omitted.) *Godfrey v. State*, 227 Ga. App. 576, 577 (2) (489 SE2d 364) (1997).

On the third day of Sallee's trial, Juror M., a local attorney, shared with a State's witness, another local attorney, his thoughts on the case. The trial court removed Juror M. from the jury and replaced him with an alternate. After individually questioning the other jurors, who said that they had not heard any comments and could remain fair and impartial, the trial court denied Sallee's motion for a mistrial.

Replacing the juror who committed misconduct and then individually polling the remaining jurors to ascertain that they could remain fair and impartial was an adequate remedy and did not deprive Sallee of a fair trial. See *Tolbert*, supra, 300 Ga. App. at 55 (2) ("Here, the trial judge thoroughly questioned each juror under oath about what he or she said or heard, and whether he or she had the ability to remain a fair and impartial juror and found that no [further] misconduct occurred and that each [remaining] juror could remain impartial."); see also OCGA § 15-12-172. Accordingly, Sallee has not shown error in the denial of his motion for mistrial.

5. Sallee contends that the trial court improperly commented on the evidence during Sallee's cross-examination in violation of OCGA § 17-8-57. We do not agree.

It is error for any judge in any criminal case, during its progress or in his charge to the jury, to express or intimate his opinion as to what has or has not been proved or as to the guilt of the accused. Should any judge violate this Code section, the violation shall be held by the . . .

Court of Appeals to be error and the decision in the case reversed, and a new trial granted in the court below[.]

OCGA § 17-8-57. However, “[t]o constitute an improper comment under OCGA § 17-8-57, the trial court’s statement must express an opinion about a witness’s credibility, whether the evidence has proven a material issue, or whether the defendant is guilty.” (Citation and punctuation omitted.) *Anthony v. State*, 282 Ga. App. 457, 458 (1) (638 SE2d 877) (2006).

“A trial judge may propound questions to a witness to develop the truth of the case or to clarify testimony, and the extent of such an examination is a matter for the trial court’s discretion.” (Citations omitted.) *Finley v. State*, 286 Ga. 47, 51 (9) (a) (685 SE2d 258) (2009). Moreover, “[a] trial court’s instruction to a defendant to give responsive answers does not indicate an opinion as to either the defendant’s credibility or his guilt or innocence.” (Citation omitted.) *Anthony*, supra, 282 Ga. App. at 458 (1).

During Sallee’s cross-examination, the following exchange occurred:

STATE: Okay. Don’t you have a duty as an attorney if there is a statement made to a third party that you later find out about, that you have got to correct that?

SALLEE: There's a duty if that is hidden. [The Birchmore] affidavit⁷ was a public record made –

COURT: The question was, do you have a duty to correct a misstatement when you find out there has been a misstatement?

SALLEE: Not if it's a matter of public record.

COURT: That's not an answer to the question. Will you answer the question?

SALLEE: I cannot answer the question as posed. I have a duty –

COURT: You're saying you don't have a duty to correct something that you know that it's wrong?

SALLEE: No. That's not what I'm saying, your Honor.

COURT: What are you saying? That's the question to you. You are a lawyer. You found out there has been a misstatement. Don't you as an attorney have a duty to correct the misstatement?

SALLEE: I have a duty also to my client. I have a duty to my client. I did not feel that was a misstatement. I have a duty to my client. Zurich

⁷ In October 2007, Birchmore prepared and recorded an affidavit setting forth the facts related to the closing and attaching a copy of the original warranty deed.

at that time had agreed to make the claim. It was a public record. I did not feel that it was a misstatement at that time.

Here, the trial court attempted to clarify Sallee's testimony as to whether he had a duty to correct a client's misstatement, and, in so doing, it did not express an opinion as to Sallee's guilt or credibility. See *Anthony*, supra, 282 Ga. App. at 458 (1) (no error where trial court directed defendant to answer the questions asked but expressed no opinion as to whether defendant's answers were truthful). Moreover, the trial court cautioned the jury explicitly that "[b]y no ruling or comment which the [trial court] has made during the progress of the trial has the [trial court] intended to express any opinion upon the facts of this case, upon the credibility of the witnesses, upon the evidence, or upon the guilt or innocence of the defendant." Under these circumstances, the trial court did not violate OCGA § 17-8-57. See *Ellis v. State*, 292 Ga. 276, 282 (3) (736 SE2d 412) (2013).

6. Sallee also contends that he was selectively and vindictively prosecuted because he had previously represented criminal defendants in Fannin County. We disagree.

Whether to prosecute and what charge to bring before a grand jury are decisions that generally rest in the prosecutor's discretion. Nevertheless, selectivity in the enforcement of criminal laws is subject

to constitutional constraints, the equal protection clause of the Fourteenth Amendment, while the due process clause of the Fourteenth Amendment protects against vindictive exercise of the prosecutor's discretion. The conscious exercise of selectivity in enforcement is not a federal constitutional violation if the selection is not deliberately based upon unjustifiable standards, as race, religion or other arbitrary classification. Pursuit of a course of action designed to penalize one's reliance on a legal right is patently unconstitutional. For this reason, where there is actual or a realistic likelihood of vindictiveness in post trial proceedings, a presumption of prosecutorial vindictiveness is said to arise.

(Citations omitted.) *Lee v. State*, 177 Ga. App. 698, 700 (1) (340 SE2d 658) (1986).

Here, both Pack and Grice were also charged with insurance fraud, although they both decided to testify truthfully in exchange for immunity. There is no evidence that Sallee was prosecuted based on his race, religion, or other arbitrary classification. Accordingly, there is no presumption of vindictive prosecution in this case. See *Lee*, supra, 177 Ga. App. 700 (1). Consequently, Sallee's claim fails.

7. Sallee also summarily contends that the trial court was biased. We disagree.

Prior to trial, all the judges of Fannin County Superior Court recused themselves to avoid any appearance of impropriety. The Honorable Hugh Stone, Senior Superior Court Judge, was assigned to try the case, and Sallee points to

nothing in the record as evidence of bias. Moreover, Sallee made no motion to recuse Judge Stone and did not seek a mistrial based on any alleged bias. Consequently, Sallee has failed to preserve this issue for appellate review. See *Works v. State*, 301 Ga. App. 108, 112 (3) (686 SE2d 863) (2009). “If [Sallee] was aware of a possible basis for recusal, he had no right to sit back, hope for a favorable ruling or sentencing, and then raise the issue for the first time in an amended motion for a new trial.” (Footnote omitted.) *English v. State*, 290 Ga. App. 378, 381-382 (2) (659 SE2d 783) (2008).

8. Sallee also contends that his trial counsel rendered ineffective assistance.

In order to prevail on a claim of ineffective assistance, [Sallee] must show that counsel’s performance was deficient and that the deficient performance so prejudiced [Sallee] that there is a reasonable likelihood that, but for counsel’s errors, the outcome of the trial would have been different. [Sallee] must overcome the strong presumption that counsel’s conduct falls within the broad range of reasonable professional conduct. In reviewing a lower court’s determination of a claim of ineffective assistance of counsel, an appellate court gives deference to the lower court’s factual findings, which are upheld unless clearly erroneous; the lower court’s legal conclusions are reviewed de novo.

(Citations and punctuation omitted.) *Hampton v. State*, 279 Ga. 625, 626-627 (619 SE2d 616) (2005). With these principles in mind, we turn to review Sallee's claims.

(a) Sallee contends that his trial counsel was deficient in failing to object to the trial court's instruction that the Birchmore affidavit was admitted for the purpose of showing Sallee's knowledge of the conveyance when the affidavit was a public record. We disagree.

The trial court instructed the jury, "Sometimes, things are admitted into evidence for a limited purpose, and [the Birchmore affidavit] is admitted into evidence on the question of the party's knowledge, if any, of the transfer of title by Kim Grice [Pack] to John David Grice. The affidavit itself does not convey and is not a conveyance of any interest in property." Here, Pack and Sallee testified that Sallee was aware at the time he submitted the proof of loss to Zurich that the Property had been conveyed to Grice prior to the fire. Consequently, even if trial counsel was deficient in failing to object, there is no reasonable likelihood that the jury's verdict would have been different had trial counsel objected to the limiting instruction.

(b) Sallee contends that his trial counsel was deficient in failing to object to the State's closing argument that Sallee should be convicted based on his failure to correct Pack's misstatement. We discern no error.

The trial court repeatedly instructed the jury that the attorneys' closing arguments were not evidence, and "qualified jurors under oath are presumed to follow the instructions of the trial court." *Allen v. State*, 277 Ga. 502, 504 (3) (c) (591 SE2d 784) (2004). Given the trial court's instruction, there is no reasonable probability that the verdict would have been different but for trial counsel's failure to object to the State's closing argument.

(c) Sallee contends that his trial counsel was deficient in failing to object to the State's questions during Sallee's cross-examination. We disagree.

Specifically, Sallee contends that trial counsel was ineffective in failing to object to the State's questions as to whether Sallee had a duty to refrain from counseling a client to engage in illegal conduct, whether Sallee had ever built a house, how many houses he owned, and whether he had ever had a fire. Here, the questions were not material and thus there is no reasonable probability that trial counsel's alleged deficiency impacted the verdict.

(d) Sallee also contends that his trial counsel was deficient in failing to object and move for a mistrial based on the trial court's questioning of Sallee regarding whether Sallee was obligated to correct a client's misstatement. As set forth above in Division 5, the trial court made no improper comment on the evidence. "The failure

to pursue a futile objection does not amount to ineffective assistance.” *Ventura v. State*, 284 Ga. 215, 218 (4) (663 SE2d 149) (2008). Therefore, trial counsel was not deficient in failing to object.

(e) Sallee contends that trial counsel was ineffective in failing to request a mistrial after the trial court admonished the jurors to pay attention to the proceedings and removed the county sheriff from the courtroom. We discern no error.

(i) During trial, outside the presence of the jury, the State alerted the trial court that the previously-discharged juror, Juror M., was sitting in the courtroom, making eye contact with and possibly communicating with a current juror, Juror G. The trial court instructed Juror M. not to communicate with or look toward the jury. The trial court also asked Juror M. to move to a different area of the courtroom and instructed the jury to pay attention to the testimony and not the audience. Later that day, outside the presence of the jury, the State asked the trial court to determine whether Juror M. had communicated with Juror G. The trial court then questioned Juror G., who denied any communication. Juror G. remained on the jury.

Here, the trial court questioned Juror G. and determined that there had been no juror misconduct. Thus, there was no necessity for a mistrial and a mistrial motion would have been meritless. See *Tolbert*, *supra*, 300 Ga. App. at 55 (2) (no mistrial

required where jurors could remain fair and impartial). “That counsel did not pursue a meritless motion cannot constitute a basis for a claim of ineffective assistance of counsel.” (Citation omitted.) *Leonard v. State*, 292 Ga. 214, 217-218 (4) (735 SE2d 767) (2012).

(ii) After the trial court asked Juror M. to move to a different part of the courtroom, two sheriff deputies stood by him. Trial counsel then asked the trial court to remove the county sheriff from the courtroom because the sheriff had posted on Facebook that Sallee, who was representing a client in an action against the sheriff, was on trial for fraud. Outside of the jury’s presence, the trial court asked the sheriff to leave the courtroom and the sheriff agreed to do so.

Here, the jury knew that Sallee was on trial for fraud. Moreover, Sallee has not shown that the fact that the sheriff left the courtroom had any affect on the jury or that but for counsel’s alleged deficiency, the result of the trial would have been different.

(f) Sallee contends that trial counsel was ineffective in failing to subpoena the entire file from Zurich or interview Linda Meskis, a Zurich employee who had worked on Pack’s claim. We disagree.

(i) At the hearing on Sallee’s new trial motion, trial counsel testified that he did not subpoena the insurance file because he already had the file’s contents.

Since trial counsel had the file, he could not have been deficient in failing to subpoena it.

(ii) As to Meskis, Sallee failed to make any proffer as to what Meskis would have testified. Therefore, it is impossible for him to show that there is a reasonable probability the results of the proceedings would have been different had trial counsel interviewed Meskis. See *Goodwin v. Cruz-Padillo*, 265 Ga. 614, 615 (458 SE2d 623) (1995) (“The failure of trial counsel to employ evidence cannot be deemed to be prejudicial in the absence of a showing that such evidence would have been relevant and favorable to the defendant.”) (punctuation omitted).

(g) Sallee contends that trial counsel was ineffective in failing to request jury charges explaining the reasonable reliance element of fraud. As set forth in Division 1 above, reasonable reliance is not an element of criminal fraud. Accordingly, trial counsel could not have been ineffective for failing to request an incorrect statement of law. See *Leonard*, supra, 292 Ga. at 217-218 (4) (counsel not required to make meritless motions).

(h) Sallee also contends that trial counsel was ineffective in failing to request a jury charge that attorneys are not subject to a different standard in applying criminal laws. See *Pope v. State*, 179 Ga. App. 739, 743 (3) (347 SE2d 703) (1986) (“behavior

which might be unethical and might even subject an attorney to discipline by the State Bar does not necessarily rise to the level of criminal conduct”). Here, the jury was correctly instructed on the elements of insurance fraud and there is sufficient evidence to support Sallee’s conviction for that crime. There were no special instructions required and Sallee cannot substantiate his claim that his trial counsel was ineffective.

For all of the stated reasons, this case is affirmed.

Judgment affirmed. Doyle, P. J., and Dillard, J., concur.



Court of Appeals of Georgia

November 13, 2014

TO: Mr. Calvin Rogers, GDC1000207048, Baldwin State Prison, Post Office Box 218,
Hardwick, Georgia 31034

RE: **A12A1531. Calvin Rogers v. The State**

CASE STATUS - DISPOSED

- Your appeal was disposed by opinion October 17, 2012. The Court of Appeals affirmed the judgment of the trial court. The remittitur issued on November 5, 2012, divesting this Court of any further jurisdiction of your case. The case is therefore, final. I am returning your documents to you.

REQUEST FOR COPIES

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

The Court's opinion in the above appeal contains 8 pages, a total or \$12.00

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

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

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

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

10/29/14

Dear Court of Appeals Clerk.

Please file the enclosed in case # A12A1531
Rogers v. State.

Thank you,

Calvin Rogers

1000 207048

Baldwin S.A.

PO Box 215

Hardscreek 6A 31034

Calvin Rogers

RECEIVED IN OFFICE

2014 NOV 10 PM 1:07

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

State

✓

Rogers, Calvin Bernard

Case No. 06SC45096

CERTIFICATE OF SERVICE

This certifies that I have this day served the opposing counsel and the Court to this Action a true and correct copy of the within and foregoing AFFIDAVIT OF CALVIN ROGERS that accompanied his State BAR of Georgia Bar Grievance by placing a copy of the same in the U.S. Mail with adequate postage thereon to ensure delivery addressing to

Fulton County Superior Ct.
136 Pryor St SW
Atlanta GA 30303
Attn: Jounita Hicks

Fulton County DA
136 Pryor St. SW
5th Floor
Atlanta GA 30303
Attn: Marc A. Mollen

Court of Appeals
47 Trinity Ave, Ste 501
Atlanta GA 30334
RE: A12A1531

On this 29 October, 2010 by Calvin Rogers

Calvin Bernard Rogers
1000207048
Baldwin State Prison
PO Box 218
Hidwiler GA 31034



STATE BAR OF GEORGIA
GRIEVANCE
CONFIDENTIAL

Please type or print legibly.

YOUR NAME: (Mr./Mrs./Ms.) CALVIN BERNARD ROGERS #1000207048

MAILING ADDRESS: Baldwin State Prison PO Box 218 Hardwick GA 31034
Street or P. O. Box City State Zip

YOUR PHONE NUMBERS: (W) N/A (H) N/A

NAME OF THE ATTORNEY: ROBIN SHIPP

Fill out a separate form for each attorney. Do not list law firms.

ADDRESS OF THE ATTORNEY: (See affidavit attached)

DATE OF FIRST CONTACT WITH ATTORNEY: June 13, 2006 DATE OF LAST CONTACT WITH ATTORNEY: Sep. 4 2012

DOES THIS ATTORNEY CURRENTLY REPRESENT YOU? UNKNOWN

STATE WHAT THE ATTORNEY HAS DONE OR HAS NOT DONE THAT CAUSES YOU TO SUBMIT THIS REPORT.

1. The attorney Shipp has abandoned my case in the middle of an appeal to the Court of Appeals;
2. The agency assigning attorney Shipp has refused to correspond with me about the case status.
3. See attached AFFIDAVIT and Attachments A - H.

Consequently, I cannot prosecute my appeal because I cannot proceed pro se when represented by counsel and I am entitled to counsel by the constitution. and the attorney and agency have abandoned my case.

If more space is needed, please attach other pages. Please do not write on the back.

"I affirm that the information I have provided here is true to the best of my knowledge."

Return to: State Bar of Georgia
Office of the General Counsel
104 Marietta Street, NW
Suite 100
Atlanta, Georgia 30303

SIGNATURE: _____

DATE: _____

OPTIONAL: PLEASE PROVIDE THE NAME AND PHONE NUMBER OF SOMEONE WE CAN CONTACT IF WE HAVE DIFFICULTY CONTACTING YOU:

NAME OF CONTACT PERSON: N/A

PHONE NUMBERS OF CONTACT PERSON: (W) _____ (H) _____

IF YOU HAVE A DISABILITY AND NEED ASSISTANCE IN THE GRIEVANCE PROCESS, PLEASE CONTACT THE ADA COORDINATOR AT (404) 527-8720 OR (800) 334-6865.

AFFIDAVIT OF CALVIN ROGERS

I, Calvin Rogers, makes this his statement under oath having read the statement beginning on page 1 and ends on page 2. The statement is true and correct subscribed

and sworn to before me, a person authorized to

administer oaths on this ^{27th} day of ^{October} 2014.

~~Notary Public~~

CALVIN ROGERS
BDC # 1000207048

I, Calvin Rogers, hereby solemnly swear and attest to

the following:

1. I am the defendant in Folton County Superior Ct. Case number D5C45D96 State v. Calvin Leonard Rogers whereby I was represented by Ms. Robin Shipp, Esq.

GA Bar # _____ with the following addresses reported as her business law offices:

- A) Ms. Robin Shipp, ATTORNEY AT LAW
4153 FLAT SHOALS PARKWAY
SUITE 302
DECATUR, GA 30034
- B) Ms. Robin Shipp Esq.
PO Box 51348
Myrtle Beach SC 29579
- C) Ms. Robin Shipp Esq.
920 Center St. Ste B
Conyers, GA 30012

2. Ms Shipp was/is a court appointed attorney from the office of the Public Defender, Atlanta Judicial Circuit

3. I was convicted and the FINAL DISPOSITION is dated

February 15, 2010 and a Motion for a New Trial was filed February 16, 2010 and Motion for a New Trial was denied November 21, 2011 and NOTICE OF APPEAL was filed December 12 and December 14, 2011.

- 4) A Court of Appeals returned a "GREEN CARD" return receipt to Fulton County clerk on March 27, 2012 and the C.O.A. Notice of Docketing is April 5, 2012 case number A12A 1531.
- 5) The last contact I have had with my attorney was September 4, 2012 (see Attachment A).
- 6) I have never received any documents from Ms. Shipp and the documents not received include:
 - A.) Any case file (superior ct.) documents such as:
 - 1.) Transcripts, motions, pleadings, filings, MNT docs,
 - 2.) Work product, investigations, interview notes,
 - 3.) Unknown.
 - B.) Any case file (Court of Appeals) documents such as:
 - 1.) Brief of Appellant. (I have State Reply Brief from another source)
 - 2.) Any work product, case law investigation, notes
 - 7.) I attempted to obtain a copy of my Court of Appeals Docket and after providing \$1.50

From my institutional GDC account the Court of Appeals ONLY sent an "Attorney Summary Sheet" and NOT a docket as requested to determine my case status. (See Attachments B and C)

8.) I obtained a Fulton Superior Ct. Docket for the underlying conviction and no remitter is listed.

9.) I have never received a copy of my Appellant Brief and Robin Shipp and the Atlanta Judicial Circuit Office of the Public Defender is silent after the following ~~to~~ attempts to contact:

A.) June 16, 2014 (see Attkh. D) [Shipp]

B.) July 14, 2014 (see Attkh. E) [Shipp]

C.) June 16, 2014 (see Attkh. F) [Public Def]

D.) July 14, 2014 (see Attkh. G) [Public Def]

10.) I require a complete copy of my case file for Superior and Appellate Court documents for any impending collateral habeas attack and cannot prosecute my case without them and they are my documents.

11.) I contacted Judge Groger on July 2, 2014 and asked for his assistance to obtain

A copy of my file and documents. (see Attk. H.)
and I have never received any documents
or response from:

A.) Robin Shipp.

B.) Office of Public Defender

C.) Judge Grogers chambers.

12.) It is my belief and understanding that
Robin Shipp, Esq. may have abandoned
my case because I cannot contact her
and I cannot obtain her documents.

13.) It is my belief that the Court of Appeals
has not ruled on A12A153! and only
has a brief from the State and may
believe (wrongly) I have abandoned my
appeal.

14.) I have never implied I have abandoned my
rights of appeal or collateral attack and
with the refusal by the persons in (11) and
Courts I cannot obtain information and
documents.

September 4, 2012

Robbin Shipp
P.O. Box 51348
Myrtle Beach, SC 29579

Calvin Rogers
Calhoun State Prison
P.O. Box 249
Morgan, Georgia 39866

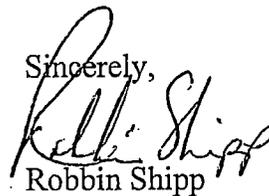
1000207048

Dear Calvin,

I received your letter requesting your discovery and transcripts as well as copies of the brief of appellant and appellee. As a preliminary matter, let me apologize that you have not received the briefs which have been filed in your case. I should have insured that you received these documents and while I instructed my office to send them to you, clearly by your letter they have not been received and for this I apologize. With regard to your transcripts and discovery; the Court of Appeals has not ruled on your case and until they do it would be premature to send you the transcripts. As far as your discovery, I only had your transcripts; the discovery was not sent to me for review as preparation for your appeal. The discovery from your trial would be in the possession of the Fulton County District Attorney's office. As I indicated to you during our numerous telephone calls; as soon as the Court of Appeals rules, I will advise you of their decision, but until then we are both in a holding pattern.

I am hopeful that this information is helpful and I understand your frustration, unfortunately there is nothing which can be done to rush along a ruling from the Court of Appeals.

Sincerely,


Robbin Shipp

Attended A.

July 2, 2014

Georgia Court of Appeals
47 Trinity Ave, Ste 501
Atlanta GA 30334
RE: Case # A12A1531

Dear Court of Appeals Clerk,
I write to ask for a copy of (my) the
COURT DOCKET and Attorney Information
regarding Case # A12A1531 Calvin
ROGERS v. The State. docketed
on April 2, 2012.

I assure payment for these costs to \$10.00
by my signature below.

Sincerely,

CALVIN ROGERS
Baldwin State Prison
CDC # 1000 207048
PO Box 218
Hardwick GA 31034

cc: file

Attch B.

file

June 16, 2014

Ms. Robin Shipp, Esq.

PO Box 51348

Myrtle Beach SC 29579

RE: Your representation Calvin Rogers

Fulton County SC. Case # 06 SC 45096

State v. Calvin Rogers

Dear Ms. Shipp,

I am writing to request a copy of your

entire case file in your appeals representation

~~from~~ on my behalf. I apologize I do not

have the ~~entire case file~~ information.

I am requesting a copy of all your work

product, investigation, legal research, reports

and what you worked from on my behalf.

The documents are required in collateral habeas

relief determination.

I thank you for your immediate attention to

this matter.

Calvin Rogers # 1000207048

Baldwin State Prison

PO Box 218

Hardwick GA 31034

cc: ftc

MMD

July 14 2014

Mrs. Robin Shipp, Esq.

PO Box 51348

Myrtle Beach SC 29579

Conyers GA 30012

RE: My letter June 16, 2014

Film case # 06 SC 45096 State v. Rogers

Appeals Case # 12A1531

Dear Ms. Shipp:

Abundance of courtin has me sending this letter

to both addresses above and follow up with

my letter of June 16, 2014

I know you are busy and have been supportive of

my case and issues. However, I require and

I am entitled to my files for use in my

collateral papers action of the above references.

I need my entire case file immediately. RE:

documents, investigations, mental impressions,

opinions, notes, transcripts, legal research etc...

I'll wait 2 weeks and recontact with file

if I have complaint if I cannot get my files now or

please address the matter, instant.

Calvin Rogers

1350 1000 503048

PO Box 218

Hardwick GA 31034

(E)

June 16, 2014

Office of Public Defender
Atlanta Judicial Circuit
160 Trinity Ave., SW
Atlanta GA 30303

Attn: Document's Custodian

RE: Film Copy Case # 06 SC 45096

Dear Document's Administrator:

I am pursuing a collateral attack habeas petition on the above reference case and I am in

some time constraint

I write to ask for a COMPLETE copy of

my case file to review for my action. Will

you kindly photocopy and send the COMPLETE

FILE for my use. Be sure to include all

source notes, investigations, opinions, work product etc
Thank you in advance,

Calvin Rogers # 1000207048

BSP

PO Box 218

Hardwick GA 31034

cc: file

(F)

CRB

July 14, 2014

Office of the Public Defender

Atlanta, Georgia

104 Trinity Ave SW

Atlanta GA 30303

RE: My letter dated June 16, 2014, Case 06SC45296

Dear Custodian of Documents,

I write to follow up on my request to

obtain a copy of my case # 06SC45296

State v. ROGERS for my use in my habeas action

Please be advised you have not responded

and my documents are needed in a

time sensitive collateral matter.

If I do not have the documents in a response

I will be left with no alternative but to

file a bad grievance against the Director for

your agency's conduct. This letter is an

attempt to resolve the matter amicably.

Sincerely,

ALVIN ROGERS # 1000 203048

BSP

PO Box 218

Hawthorn GA 31034

cc: file

(6)

July 2, 2014

Hon Judge Roger Chambers

185 Central Ave, 5th Fl T-8655

Atlanta GA 30303

Attn: Case Manager for 065C45096

Dear Judge Roger and Case Manager:

First, I apologize for "logging-up" the

docket for the above reference in my quest

to obtain documents associated with the

case. Please take a moment to consider

the following.

I trying to assemble documents for use in

a collateral (habeas) proceedings that you

are well aware is time constrained to

protect a federal (habeas) review. I've not

had any response from the Atlanta public

Defender Office or my appellate counsel for

documents - any documents whether filed or not.

Judge, could you please order the clerk to

send me a copy of the complete file/documents

filed for the case? I'll press along with this

and appellate (and D.A.) for their documents

as well but at least the clerk's documents will

help greatly. Sincerely,

Calvin Rogers #100020448

Baldwin State Prison

PO Box 218

Hardwick GA 30337

(H)

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 13, 2014

To: Mr. Charles E. Thompson, 1254 Third Street, Macon, Georgia 31201

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

RECEIVED IN OFFICE

2014 NOV 12 PM 3:23

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS

STATE OF GEORGIA

Charles E. Thompson
Plaintiff

vs.

Robert Reichert et al.
Defendant

Civil Action No.:
12-CV-58359

Civil Action: MUSUIT

POVERTY AFFIDAVIT

Comes now Charles E. Thompson, Plaintiff in the above styled Request for Grant of Poverty Waiver (Enter name of the Petitioner), being first duly sworn, deposes and says:

1. That I, by reason of my poverty, am unable to pay the cost deposit required by O.C.G.A. § 5-6-77 to file a civil case in the courts of Bibb County.
2. That I am 68 years of age, and my monthly household income is \$376. A copy of my last two pay stubs/unemployment checks/other proof of income source is attached.
3. That I live at 1254 Third St. N.W., and pay \$350 per month as rent.
4. My household consists of 1 number of people.
5. That I pay the following bills each month:

Name of Bill	Amount of Bill
<u>Two In-A-Rooming House and Rent</u>	<u>350.00 per month</u>
<u>Utilities and Water Bill</u>	
<u>Rent of a 350.00 per month</u>	

6. That I hereby request that I be able to proceed in this action without having to pay filing fees and associated costs.

Signed this 5 day of November 2014
(Day) (Month) (Year)

Charles F. Thompson
(Sign your name before a Notary)

Petitioner's name (Print or type): Charles F. Thompson
Petitioner's Address 1254 THARD ST.
MAKON, GA 31024
Petitioner's Telephone Number: 478-318-911A

Sworn to and affirmed before me, this
5 day of November, 2014

Gene Ford
Notary Public
My commission expires: 1-21-17
(Notary Seal)
NOTARY PUBLIC
GENE FORD
APRIL 21, 2017
BIBB COUNTY, GEORGIA

IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

Charles E. Thompson
Plaintiff

Civil Action No.: *D-CV-58359*

v.

Robert Reicher Tebbel
Defendant

ORDER ON AFFIDAVIT OF POVERTY

The Pro Se Plaintiff/Defendant having filed an Affidavit of Poverty with the Clerk of Court and the Court having reviewed the Affidavit and the other initial pleadings finds as follows:

- Affidavit Approved-** It appears to the Court that the Affiant is unable to pay the filing fees and associated costs of this action. Therefore, the Affiant's pleadings shall be filed, and the Affiant shall be relieved from paying the filing fee, sheriff's fee and other costs normally required.
- Affidavit Not Approved-** It appearing to the Court that the Affiant is able to pay the filing fee and associated costs of this action, or that filing should otherwise not be allowed under. Therefore the Affiant shall not be relieved from paying the filing fee, sheriff's service fee, or any other costs normally required.

This Order entered on _____, 20____.

Judge
Bibb County Superior Court

EXHIBIT FOR JAWPER AHA 1007

Social Security Administration
Retirement, Survivors and Disability Insurance
Notice of Change in Benefits

Southeastern Program Service Center
1200 Rev. Abraham Woods, Jr. Blvd.
Birmingham, AL 35285-0001
Date: March 19, 2013
Claim Number: 422-58-9649A



M23 00000598 1 SP 0.440 T

CHARLES E THOMPSON
2041 THIRD AVENUE
MACON GA 31204-3014

We are writing to give you new information about the retirement benefits which you receive on this Social Security record.

Your Benefits

We used the amount refunded to replace some of the money we overpaid you.

What We Will Pay

- The next check you receive will be for \$396.00, which is the money you are due through March 2013.
- After that, you will receive \$396.00, on or about the fourth Wednesday of each month.

Do You Think We Are Wrong?

If you disagree with this decision, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

5000598*01011959J060598*MDGARF.M23199J.R13013.1.1st

If You Have Any Questions

We invite you to visit our website at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-888-833-6155. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
3530 RIVERSIDE DRIVE
MACON GA 31210

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

Social Security Administration

IN THE Georgia State Court of Appeals
State of Georgia

Charles E. Thompson Plaintiff

Civil Action No.

vs.

12-CV-58359

Robert Rejchert et al.
Defendants

CC Notification of Pending Action JJ

Comes now Plaintiff in the above style and in form
the court that he is in the process of appealing
the court below grant of motion for summary
judgment against his case and ~~that~~ I have sub-
mitted my notice of appeal to that court and I have
also included a copy of that notice of appeal to
this court along with a copy of my pauper's Affi-
davit. If this court accepts this notarized copy
of my pauper's Affidavit and grant me that right
to so proceed then I ask this court to accept this
pauper's Affidavit for all my proceedings in this
court including for my application and if this court
grants my application then I ask this court to use
this affidavit for both proceedings if possible. I
don't yet have my application ready at this time

Signature: Thompson Date: 11-2-2014

(2)
but within the 30 day time limit I shall have my
application filed in the court. If I need be I ask
this court to hold this Affidavit in the context
I need be because I am unable to do so and can't keep
paying a notary fees and other expenses. My Affi-
davit is worth coming.

IN THE SUPERIOR COURT OF BIRB COUNTY
STATE OF GEORGIA

MARKSE E. THOMPSON
Plaintiff

Robert Reicherter et al,
Defendants.

CIVIL ACTION NO.
12-CV-58359

NOTICE OF APPEAL

Plaintiff in the above state appeal the courts 11-30-14 order granting defendants motion for summary judgment to the Georgia state court of appeals. All transcripts are to be transferred and included in the records, nothing in the records to be omitted or altered. The court below had absolutely no jurisdiction for the U.S. or state constitution. The judge obviously discriminated against him because the court reversed the court below decision which held it did not state cause of action. The court below was reverse due Thompson v. Reicherter 319 Ga. App. 23 (2012). The court made an error because it did not consider Plaintiff's conflicting evidence. Plaintiff asserted in his response against the motion for summary judgment, and did defend address 55 255-

- CERTIFICATE OF SERVICE -

This is to certify that I have served a true and correct copy of these pleadings on the party below and I've never experienced or heard of such an unjust decision as what was done by the court. I am a Vietnam combat veteran who fought for his country at a very controversial time in the history of his country and ~~the~~ ALL I am asking for is a fair decision from a tribunal that has legal jurisdiction. I deserve better than this and I am not asking for any sympathy. I fought for this country in the world's most elite fighting outfit, the US Marine Corp and got an honorable discharge after 4 years of service. The judge didn't decide the part concerning the conflicting evidence and he didn't consider the contents of the affidavits. What the court did is unthinkable. The judge was placed in a position to see for purpose of discriminating against Robert Kercher, Mayor of Poplar Street, VA. Can SA, 3601

US poor unemployed Black folks. Check records and see for yourself.

THIS THE 2nd day of November 2014

signed, Rev. Charles E. Thompson
 DRASE

1. Certificate of Service -
This is to certify that I have served the party be-
low listed at the and correct copies of these en-
closed documents;

Robert Kenneth Major,
700 Poplar Street
Macon, GA 31201

This the 2nd day of November, 2014

Sign: Charles R. Thompson

Bose

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

November 13, 2014

To: Rajesh M. Patel, M.D., 3326 Preservation Court, Lilburn, Georgia 30047

Docket Number: **Style:** **Rajesh M. Patel v. Georgia Department of BHDD, 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: I have also enclosed SunTrust Check No. 101, paid to the order of the Court of Appeals of Georgia in the amount of \$300.00.**

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

ORIGINAL

FILED IN OFFICE

NOV 08 2014

COURT CLERK

COURT OF APPEALS OF GA

IN THE COURT OF APPEALS OF GEORGIA

RAJESH M. PATEL, MD; pro se

Petitioner, Appellant

vs.

GEORGIA DEPARTMENT OF BHDD,

Defendant, Appellee

GEORGIA MEDICAL BOARD

Respondent, Appellee

File No: _____

Fulton County Superior Court

Related Civil action file No:

Court of Appeals GA: A13A0731

SPB appeal No: OSAH-SPB-DIS-

1033461-60-Teate

DeKalb County Superior Court:

No: 12-CV-5520-5-ADAMS

GA Supreme Court: S13C1739

USDC-NDGA: 1:12-cv-158-TCB

US 11th Circuit: 12-14160

U.S. Supreme Court: 13-800

Dr. Patel timely files discretionary application for leave to appeal (petition) under O.C.G.A. § 5-6-35, Fulton County Superior Court's refusal of Judge's sanction and filing on 11/05/2014, of attached timely served (to both above) petition for writ of certiorari including filing fees, certiorari bond and no payment due letter.

Respectfully submitted,

R. Patel, MD

11/08/2014

Rajesh M. Patel, MD, Plaintiff, petitioner, Appellant, pro se

3326 Preservation Ct, Lilburn, GA 30047-2075

706-512-0366; rpatel30161@yahoo.com

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2014 NOV 10 PM 1:11
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

YOGINI PATEL
3326 PRESERVATION CT
LILBURN, GA 30047

64-10/610
1000149405044

101

Date Nov 8, 14

Pay to the
order of

Court of Appeals of Georgia

\$ 300⁰⁰

Three hundred dollars.

Dollars



Security Features
Include:
Details on Back.



SUNTRUST

ACH RT 061000104

Memo

Petition Disc. Appl.

Ante Rojas MP

⑆061000104⑆1000149405044⑆010⑆

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 13, 2014

To: Mr. Jimmy W. Taylor, GDC813346, Robert L. Patten Probation Detention Center, Post Office Box 278, Lakeland, Georgia 31635

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

Court of Appeals of Georgia

I Solemnly Swore that the statement I'm
is nothing but the truth so help me God. I
Jimmy Warren Taylor Jr. is writing to the
Appeals about what happened to me within
Tifton Judicial Circuit. I feel my Constitutional
Rights was Violated by the Superior Court
Tifton Ga, 31793. The matter at hand concerns
(2) Cases CR 174 2008 and CR 088 2014. Now as to
Case Docket CR 174 the Statute of Limitation had
ran out. I Caught the charges in August 16, 2008.
I went to prison for (3) years from 8/16/2008 til
8/25/2011. I was never arraigned for said, case
Nor did I appear before a Superior Court Judge
about the charges. Superior Court Judge Melonie
B. Cross acted in behalf of the District Attorney
Kevin Hutto. The error that was made wasn't my
fault. I was out on Bond every since 8/16/08
but, I never got out of Jail because the probation
hold that was on me. From my understanding D.A.
Kevin Hutto didn't like the fact that this error
existed. So he found favor in Melonie B. Cross
Superior Court Judge of Tifton Ga. My Court
appointed lawyer when I got out of prison was
George Bassonette. From 8/25/11, I never talked
to Mr. Bassonette about Case Docket CR. 174 until
Feb 2, 2014. On that date George Bassonette stated
it was time for me to go to trial no motions
was processed at that time. I was to appear
in Court 3/5/2014 I Jimmy Warren Taylor Jr.
and Mr. George Bassonette never discussed

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CLERK OF SUPERIOR COURT
TIFTON GEORGIA

anything about the case docket CE 174 at anytime which I said was negligence of my case. Now March 8, 2014 I Jimmy Warren Taylor Jr. was arrested for obstruction of an peace officer with force and Pass. of Maryland with the intent to distribute
I was driving in my car and a Police officer Pull me over. My license was valid so was my tag. The officer asked if he search my car I stated yes, while my car was being search he asked if he could search me I said yes as the officer was searching me another officer attack me and took me to the ground he pushed my face in the pavement. The Lt. for the Police force is Mr. Adam story he picked me off the ground and searched me again nothing was found on my person. The Police officer that pulled me over stated I Jimmy Warren Taylor Jr. took a swing at him and Maryland was found on me. What the officer forgot was when I was pulled over his lights was still on so the incident was recorded. I was arrested and charge with obstruction of Police officer with force, Pass. of Maryland with intent to distribute. My bond was denied because of pending charges Case CE 174 2008 I was schedule to go to trial for said, Case CE 174 2008 but Superior Court Judge Melonie B. Cross allowed the D.A. to use the present Case CE. 088 2014. While I was in said I wrote the Judge Melonie B. Cross

Stating that my Court Appointed lawyer George Bassawette never came to see me from March 1 2014 till May 1 2014. The Superior court judge fired me. Bassawette for negligence to my case May 15th 2014 in open court. June 2, 2014 George Bassawette brought me Jimmy Warren Taylor Sr. a Plea Agreement that the D.A. made from May 6th 2013 at which time the Honorable Bill Rieuhart was in the chair and they felt that the CE174 2008 was gonna be thrown out. So they waited on Superior court judge Melodie B. Cross. June 12, 2014 Superior court judge Melodie B. Cross reassigned George Bassawette back to my case and June at 2014 I was going to trial on case CE 088 2014. Now I was willing to go to trial but when my Appointed lawyer George Bassawette seen the video. He stated he wasn't going to believe me over the arresting officers and that he didn't like me. This is what made me Jimmy Warren Taylor Sr. take a Blind Plea cause I feared for my life seeing the Actions of a Judge, the D.A. and my Appointed lawyer against me. I never stood a chance against such force. Thank you ever so much for your time.

Jimmy Warren Taylor Sr.
11/5/2014

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

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

404-656-3450

November 14, 2014

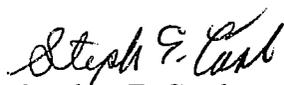
Mr. Burke TesFaye
GDC1042072
Rutledge State Prison
7175 Manor Road
Columbus, Georgia 31907

Dear Mr. TesFaye:

I am returning your submission to this Court. I am also including a copy of the Georgia Court of Appeals' Rules, as you requested. We are not permitted to provide you any legal advice on how you should proceed with your appeal or to provide you any instructions on preparing and presenting your appeal. I will inform you that a Notice of Appeal is filed in the trial court.

I hope this is some assistance to you.

Sincerely,


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

SEC/ld
Enclosures

Clerk of the Court of Appeals,

AS A PRO-SE Litigant I am Without
knowledge of what Type of "Appeal" that
I am Filing to this Court? I would
ASSUME it is An Application For A

Discretionary Appeal? My Case being A
Murder Conviction I am Still in thought^{???}

of why the Supreme Court Transferred
My Case to your Court! In Filing My Notice
of Appeal to your Court To Hold In-ABEYANCE
is So My Time Will Stop Until your Court
GIVES ME Instructions! Possible Could I
Get A Set of your Rules?

11-09-2014

||

Thank-you

BREKKE ESTAYE

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2014 NOV 12 PM 2:44

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE GEORGIA COURT OF APPEALS

FOR THE STATE OF GEORGIA

BURKE TESTAYE :

APPELLANT,

Supreme Court Fulton County

Criminal Indictment No.

V-24507

VS.

STATE OF GEORGIA:

Supreme Court of Georgia

Case No. S15DD0217

APPELLEE, : PRO-SE-APPELLANT

NOTICE OF APPEAL

TO HOLD IN-ABEYANCE

UNTIL APPELLANT IS NOTIFIED BY THIS COURT

TAKE NOTICE THAT THE APPELLANT IS GIVING THIS COURT OF APPEALS OF GEORGIA A TIMELY NOTICE OF APPEAL TO HOLD IN-ABEYANCE UNTIL APPELLANT IS NOTIFIED BY THIS COURT TO PROCEED WITH FURTHER INSTRUCTIONS. APPELLANT APPEALS TO THE COURT OF APPEALS FROM THE ORDER OF THE SUPREME COURT OF GEORGIA; CASE NO. S15DD0217 HANDED DOWN OCTOBER 29TH, 2014; BURKE TESTAYE V. THE STATE; THERE BEING NO BASIS FOR THIS COURT'S SUBJECT-MATTER JURISDICTION, THE CASE

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2014 NOV 2 PM 2:14
DEPARTMENT OF APPEALS OF GA

is hereby transferred to the Court of Appeals; "All the Justices Concur". Appellant received this [ORDER] in the Prison Legal Mail November 3rd, 2014.

Appellant originally appealed from the Denial [ORDER] of the Fulton County Superior Court [Motion to Correct Illegal Sentencing] that had been filed & docketed into the Superior Court of Fulton County on May 2nd, 2014. The Trial Court was in default of not properly answering the Appellant's [Pleading] under 15-C-21 (A), (B), (C), (D). "On the 24th Day of September, 2014, the Trial Court finally entered its Ruling Denial Order after a Motion of Default had been filed by the Appellant.

"A Direct Appeal Lie" by the Trial Court's Denial to the Supreme Court of Georgia due to Appellant's case being a [Murder] conviction and the Trial Court's failure to correct illegal sentencing. The Supreme Court of Georgia has "transferred" Appellant's appeal to the Court of Appeals of Georgia.

Appellant "requests" to this Court to be allowed to proceed IN-FORMA PAUPERIS and will submit a pauper's affidavit to show that he is indigent and is not financially able to pay the \$80.00 Dollar filing fee.

Appellant "Prays" this Honorable Court will accept his Notice of Appeal to hold IN-ABEVANCE until Appellant is notified by this Court to further proceed.

Appellant Further "Prays" that the Supreme Court of Georgia will also transmit all records of the Court in this matter to the Georgia Court of Appeals.

Truly Submitted By:

Burke Tesfaye

Rutledge State Prison

7175 Manor Road

Columbus, Georgia.

31907

Aurelius Markaria Alexander
Notary Public
MURDOCK COUNTY, GEORGIA
MY COMMISSION EXPIRES
February 17, 2018

CERTIFICATE OF SERVICE

This is to Certify that I have this Day Served A True and Correct Copy of the Within and Foregoing upon Parties listed Below and will properly serve all Parties by the Prison U.S. Mail.

SUBORN BEFORE ME ON

Aurelius Markaria Alexander
Notary Public
MURDOCK COUNTY, GEORGIA
My Commission Expires
February 17, 2018

Burke Tesfaye
Signature

PARTIES SERVED BY U.S. MAIL:

Georgia Court of Appeals Supreme Court of GA. GA. Dept. of Law

334 State Judicial Building 244 Washington St., S.W. Attorney General's Office

Atlanta, GA 30334 570 State Office Annex 40 Capital Square, S.W.

Atlanta, GA 30334 Atlanta, GA 30334

IN THE GEORGIA COURT OF APPEALS
FOR THE STATE OF GEORGIA

BURKE TESFAYE
Appellant,
VS.
STATE OF GEORGIA
Appellee,
Superior Court Fulton County
Criminal Indictment No.
Y-24507
Supreme Court of Georgia
Case No. S15D0817
Court of Appeals No. _____

PAUPER'S AFFIDAVIT

Comes Now, Burke Tesfaye first being duly sworn, Deposits and States I am financially unable to pay the \$80.00 Filing Fee Required for Filing Costs in the Court of Appeals of Georgia and Request to Proceed In-Forma Pauperis as a Pro-Se Indigent Appellant and to be Relieved of any other Costs in this Matter that is before this Court.

Laurentius Martine Alexander
Suzanne Taylor
Missouge County, Georgia
My Commission Expires February 17, 2018
This Court Clerk
NOTARY PUBLIC

SIGNATURE



SUPREME COURT OF GEORGIA
Case No. S15D0217

Atlanta, October 29, 2014

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BURKE TEFAYE v. THE STATE

There being no basis for this Court's subject-matter jurisdiction, the case is hereby 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.

Lee C. Pulton, Chief Deputy Clerk



2014

Georgia Court of Appeals

R U L E S

Last Update: May 15, 2014

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

Date: November 14, 2014

To: Mr. Paul L. Thennes, GDC1000996450 1-44, Georgia Diagnostic and Classification Center, State Prison, Post Office Box 3877, Jackson, Georgia 30233

Docket Number: A14A1348 **Style:** Paul L. Thennes 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 must include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.**
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other

HAPPENED,

PRODUCED TO PROVE AT ANY TIME DID SAID MOLESTATION

AND CHILD MOLESTATION, NO PHYSICAL EVIDENCE WAS

SAID IMAGES, IN THE CASE OF THE ALLEGED RAPE SODOMY

USED WAS KEPT, COULD AND DID PLACE THE CD CONTAINING

THE ROOM [LIBRARY] WERE THE COMPUTER THAT MR THENNES

IMAGE, THE JURY CONCLUDES ANYONE ENTERING AND USING

SOLE POSSESSION OF THE ALLEGED CD CONTAINING THE

MR THENNES ON THE GROUNDS THAT MR THENNES DIDN'T HAVE

PHOTOS OF CHILDREN OR TATTA L HAPMAN, THE JURY ACCUSED

THAT NEITHER ITEM CONTAINED ANY PORNOGRAPHIC

DEPARTMENT AND FROM WALKER COUNTY SHERIFF DEPARTMENT

COMPUTER WERE CLEARED BY DETECTIVES FROM ROSSVILLE POLICE

RESIDED, MR THENNES'S BLACKBERRY CELL PHONE AND

WARRANT ISSUED FOR THE RESIDENCE WHERE MR THENNES

THAT NO ACTUAL PHYSICAL EVIDENCE WAS FOUND AS A SEARCH

RECONSIDERATION OF HIS APPEAL, MR THENNES CONCLUDES

HERE COMES PAUL L THENNES RESPECTFULLY REQUESTING

MOTION FOR RECONSIDERATION

CASE A14A1348

THENNE V. STATE

Clerk/Court Administrator
COURT OF APPEALS OF GA

2014 NOV 12 PM 2:51

RECEIVED IN OFFICE

NOVEMBER 2, 2014

MOTION FOR RECONSIDERATION

EVIDENCE WAS INTRODUCED AT MR THENNES'S TRIAL, THAT MR THENNES HAS MEDICAL PROBLEMS WHICH MAKE IT NOT POSSIBLE FOR MR THENNES TO PARTICIPATE IN ANY KIND OF SEXUAL ACTIVITY. THE LACK OF ANY SEXUAL DESIRE CAUSED BY DIABETES AND HEART DISEASE. HEART DISEASE WHICH MR THENNES WAS DX WITH IN 1995 AND DIABETES IN 2006, MR THENNES ALSO SUFFER FROM SEVERE ERECTILE DYSFUNCTION CAUSED BY VEINOUS INSUFFICIENCY. AT THE TRIAL MR THENNES FORMER WIFE TESTIFIED THAT PRIOR TO THEIR DIVORCE MR THENNES HAD NO SEXUAL DESIRE OR ACTIVITY BEGINNING IN 1995 WHEN THE MEDICAL PROBLEM BEGAN.

PLEASE FILE AND SEND ME A STAMPED COPY

RESPECTFULLY SUBMITTED

PAUL L. THENNES 1000996450

G.D., C.P.

Doorn 1-44

P.O. Box 3877

Jackson GA 30233

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

Date: November 17, 2014

To: Mr. Jairus Moore, GDC1098152, Hays State Prison, Post Office Box 668, Trion, Georgia 30753

Docket Number: A15A0536 **Style:** Jairus Moore v. The State

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

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

IN THE COURT OF APPEALS
STATE OF GEORGIA

JAIRUS MOORE * APPEAL CASE NUMBER
APPELLANT, * A15A0536
V. *
STATE OF GEORGIA *
APPELLEE

BRIEF OF APPELLANT

FILED IN OFFICE

NOV 14 2014

COURT CLERK
CLERK COURT OF APPEALS OF GA

JAIRUS MOORE
Appellant
Hays State Prison
P.O. Box 668
Trion, GA 30753

RECEIVED IN OFFICE
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CLERK/COURT REPORTER/STENOGRAPHER
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS
STATE OF GEORGIA

*

JAIRUS MOORE

*

APPEAL CASE NUMBER

APPELLANT,

*

A15A0536

V.

*

STATE OF GEORGIA

*

APPELLEE

BRIEF OF APPELLANT

FILED IN OFFICE

NOV 14 2014

COURT CLERK
CLERK COURT OF APPEALS OF GA

JAIRUS MOORE
Appellant
Hays State Prison
P.O. Box 668
Trion, GA 30753

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CLERK/COURT REGISTRAR
COURT OF APPEALS OF GA

PART 1
A. STATEMENT OF THE CASE

This is an appeal from the District Court of Georgia. Appellant appeals his conviction on Civil Action No. 1:13-CV-4002-TWT-JSA. Petitioner was convicted by a Dekalb County jury of rape, aggravated sodomy, aggravated assault, and possession of a firearm during the commission of a crime, which was affirmed on direct appeal on September 27, 2000. *Moore v. State*, 246 Ga. App. 163, 539 SE2d 851 (2000), cert. denied, NO. SolCo235, 2001 Ga. LEXIS 368 (Ga. Apr. 30, 2001).

Petitioner filed a state habeas corpus petition in Chattooga County on August 21, 2009. Following an evidentiary hearing on December 11, 2012, the state habeas court denied relief in a final order filed on July 29, 2013. Petitioner's application for a certificate of probable cause to appeal was denied by the Georgia Supreme Court on November 4, 2013.

On December 2, 2013, Petitioner executed this federal petition challenging the same Dekalb County jury trial convictions and sentences for rape, aggravated sodomy, aggravated assault, and possession of a firearm during the commission of a crime. Pursuant to the show-cause order, Petitioner has filed an answer and moves that his petition be granted.

B. PRESERVATION OF ERRORS

1. Enumeration of error No. 1 was preserved because the jury array issue was not presented to the jury. See *Edwards v. Lewis*, 283 Ga. 345, 658 SE2d 116 (2008).
2. Enumeration of error No. 2 was preserved because the trial counsel failed to object and move for a mistrial when trial judge communicated with the jury, outside petitioners presence and absent of a waiver from petitioner. (T. 529). See also *Profitt v. Wainwright*, 706 F.2d 311 (11th cir. 1983)
3. Enumeration of error No. 3 was preserved because the prosecution failure to prove venue beyond a reasonable doubt for the crime allegedly committed against Evelyn Cox. (T. 470) *Jones v. State*, 272 Ga. 900, (2000).
4. Enumeration of error No. 4. was preserved because trial counsel failed to make minimal inquiry which would have revealed illegality of petition's arrest where prejudicial. *Pitts v. State*, Ga. Appeal. 47, (1993).

PART II

A. ENUMERATION OF ERRORS

1.

The trial court erred in allowing the prosecution to prosecute appellant on a non updated jury array form

2.

The trial court erred in allowing the trial to continue after trial judge communicated with the jurors outside of appellant presence and absent of a waiver.

3.

The prosecution failed to prove venue beyond a reasonable doubt for the crimes allegedly committed against Evelyn Cox.

4.

The trial court erred in allowing the prosecution to prosecute appellant on illegal arrest warrants.

PART III

A. STANDARD OF REVIEW

1.

The standard of review for the first enumeration of error one is: whether the jury array form not being updated effected the outcome of appellant trial. *Edwards v. Lewis*, 283 Ga. 345, 658 SE2d 116 (2008).

2.

The standard review for error number two is: whether it was clearly erroneous for the trial judge to communicate with the jurors outside of appellants presence outside of a waiver from appellant. *Profitt v. Wainwright*, 706 F.2d 311 (11th cir. 1983)

3.

The standard review for error number three is: whether it was clearly erroneous for the prosecution failurer to prove venue beyond a reasonable doubt for the crime allegedly committed against Evelyn Cox. O.C.G.A. § 17-2-2, and *Jones v. State*, 272 Ga. 900, (2000).

4.

The standard review for error number four is: whether it was clearly erroneous for the prosecution failure to make minimal inquiry which would have shown that appellant warrants were based on illegality of petition arrest where prejudicial. *Pitts v. State*, Ga. Appeal. 47, (1993).

B. ARGUMENT AND CITATION OF AUTHORITY

1. THE EVIDENCE FROM THE JURY ARRAY WAS INSUFFICIENT TO SUPPORT THE CONVICTIONS.

The Dekalb County Superior Court was still using data from the 1990 Census in summoning jurors even though reliable data from the 2000 census (658 SE2d 118) was already available. The jury that convicted Edwards was 58% white. According to O.C.G.A. § 15-12-40(a) the composition is to be updated every two years. Following the appointment of a new chief judge, the judges agreed to do so, but only if the public defender office would agree not to pursue challenges to the racial composition of the grand and traverse jury arrays in Edward's case and other past cases. The jury array issue was a strong one.

Edwards v. Lewis, 283 Ga. 345; 658 SE2d 116; (2008).

2. THE TRIAL COURT ERRED WHEN IT ALLOWED THE TRIAL JUDGE TO COMMUNICATE WITH THE JURORS OUTSIDE OF APPELLANT PRESCENCE

Trial counsel failed to object and move for a mistrial when the trial judge communicated with the jurors outside of Appellant presence and absent of a waiver from Appellant, on (T. 529).

Profitt v. Wainwright, 706 F.2d 311 (11th cir. 1983).

3. THE PROSECUTION FAILED TO PROVE VENUE BEYOND A REASONABLE DOUBT FOR THE COUNTS ALLEGED AGAINST EVELYN COX.

Pursuant to O.C.G.A. §17-2-2 and Graves v. State, 269 Ga. 772, 776 (1998.). The prosecution must establish venue beyond a reasonable doubt. This Court has recently held that a conviction cannot stand, even in absence of an objection, when proof of venue is challenged and not proven. See Bradley v. State, 283 Ga. App 490 (1999). The record is completely void of any competent evidence

that any alleged crime committed against Evelyn Cox was committed in Dekalb County. Although appellant was asked if he knew the location was in Dekalb County during his testimony he stated that he was not sure. (T. 470). None of the investigating officers were able to discover the exact location of the street where appellant and Ms. Cox had intercourse and the prosecution produced no competent evidence to establish venue. Jones v. State 272 Ga. 900, (2000).

4. TRIAL COUNSEL FAILED TO MAKE MINIMAL INQUIRY WHICH WOULD HAVE REVEALED ILLEGALITY OF APPELLANT ARREST WARRANTS

Trial counsel has a duty to make reasonable investigation according to House v. Balckom, 725 F.2d 608, 1984, Holsomeback v. White, 133 F. 3d 1382, 1998, as well as Shorter v. Waters, 275 Ga. 581, 2002. Constitution deficiency of trial, motion for new trial and appellate counsel in failing to make minimal inquiry which would have revealed illegality of petition's arrest where prejudicial errors warranted reversal of petition's conviction and sentence under the standard set forth in Strickland v. Washington, 466 U.S. 668, 1984. Counsel's role as advocate requires that he support his client's appeal to the best of his ability, which he failed to do. Andrews v. California, 386 U.S. 738, 1967. Petition's appellate counsel deficient performance prejudiced his defense. The prejudice competent under Strickland involves a determination whether absent counsel deficient performance there is a reasonable probability that the outcome of the proceeding would have been different.

CONCLUSION

WHEREFORE, based on all the facts, law and argument outlined above, Appellant Mr. Moore respectfully requests that his convictions be reversed, that he be granted a new trial, that his sentence be set aside and any other further relief as is just and proper.

This the 10TH day of November, 2014.



Jairus B. Moore

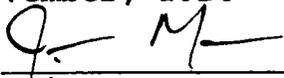
Hays State Prison
P.O. Box 668
Trion, Ga. 30753

CERTIFICATE OF SERVICE

This is to certify that I have this day desposited in the United States Mail, postage pre-paid, a true and accurate copy of the foregoing to:

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

This the 10TH day of November, 2014



Jairus B. Moore

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

November 17, 2014

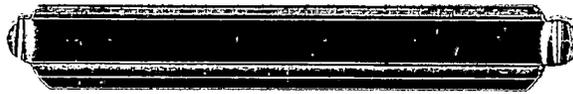
To: Troy R. Millikan, Esq., Post Office Box 679, Gainesville, Georgia 30503

Docket Number: A15A0183 **Style:** **In Re: Interest of J.H.S., a Child**

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: **This Court is returning the Reply Brief of Appellant because no Appellee's Brief has been filed. The Appellee's Brief was returned to the filing attorney because he was not admitted to practice in this Court.**

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



FILED IN OFFICE
NOV 06 2014
COURT CLERK
CLERK COURT OF APPEALS OF GA

IN THE COURT OF APPEALS
STATE OF GEORGIA

IN RE: *
INTEREST OF J.H.S., CHILD * Case No. A15A0183

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REPLY BRIEF OF APPELLANT

Troy R. Millikan
Attorney for Appellant
Georgia Bar No. 509200
Post Office Box 679
Gainesville, Georgia 30503
(770) 536-7970

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 18, 2014

To: Mr. Michael Redford, Unit 5C3, Douglas County Jail, 8472 Earl D. Lee Boulevard, Douglasville, Georgia 30134

Case Number: Lower Court: County Superior Court

Court of Appeals Case Number and Style:

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

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

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

IN THE COURT OF APPEALS
STATE OF GEORGIA
FILED IN OFFICE

NOV 17 2014

COURT CLERK
CLERK COURT OF APPEALS OF

MIKE REFORO
APPELLANT
V.
STATE OF GEORGIA
APPELLEE

APPEAL CASE NO. [redacted]
DOUGLAS COUNTY CASE NO. 14CR245

MOTION FOR EXTENSION OF TIME TO FILE
THE MISSING CERTIFICATE

COMES NOW DEFENDANT MIKE REFORO IN THE ABOVE STYLED CASE AND HEREBY MOVES THIS HONORABLE COURT FOR EXTENSION OF TIME TO FILE THE MISSING MAILED CERTIFICATES OF IMMEDIATE REVENUE, THAT THE 10 DAYS REQUIREMENT HAS RUN OUT DESPITE THE FACT THAT THE ORDER WAS ISSUED ON OCTOBER 29, 2014 AND CERTIFICATE OF IMMEDIATE REVENUE WAS MAILED TO THE CLERK ON OCTOBER 27, 2014 AFTER THE HEARING OF OCTOBER 22, 2014. THE ASSISTANT DISTRICT ATTORNEY ANNA VAUGHAN HAS COPIES BUT THE JUDGE ROBERT T. JAMES OF DOUGLAS COUNTY SUPERIOR DOES NOT HAVE THE COPY OR HAS HE SIGNED ONE. WHERFORE, DEFENDANT PRAYS FOR HIS MOTION TO BE GRANTED OR RULE MUST BE ISSUED FOR HEARING.

RESPECTFULLY SUBMITTED
MIKE REFORO, PRO SE

THIS 12 DAY OF NOVEMBER, 2014

CERTIFICATE OF SERVICE

I CERTIFY THAT MS. ANNA VAUGHAN, DOUGLAS COUNTY ASSISTANT DISTRICT ATTORNEY HAS BEEN SERVED VIA U.S. FIRST CLASS MAIL.

MIKE REFORO, PRO SE

THIS 12 DAY OF NOVEMBER, 2014

2014 NOV 18 PM 2:25
COURT OF APPEALS OF GEORGIA

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

Date: November 18, 2014

To: Mr. Roscoe Powers, Jr., GDC931460, Wheeler Correctional Facility, P.O. Box 466, Alamo, Georgia 30411

Docket Number: A15A0134 **Style:** Roscoe Powers, Jr. v. The State

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

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

IN THE COURT OF APPEALS OF THE STATE OF
GEORGIA

APPEAL CASE NUMBER: A15A0134

ROSCOE POWERS JR
APPELLANT,

v.

THE STATE OF GEORGIA
APPELLEE.

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COURT OF APPEALS OF GA

APPELLANT'S AMENDMENT REPLY BRIEF

ROSCOE POWERS JR
Wheeler Correctional Facility
P.O. Box 466
Alamo, GA 30411

IN THE COURT OF APPEALS
OF THE STATE OF GEORGIA

ROSCOE POWERS JR.
Appellant,

v.
STATE OF GEORGIA
Appellee.

COURT OF APPEALS

CASE No. ALSA0134

APPELLANT'S AMENDMENT REPLY BRIEF

The STATE OF Georgia is CONFUSED ON APPELLANT'S REPLY BRIEF
The STATE OF Georgia is THINKING about The ITARY'S REQUESTS
the clerk to include in the record on appeal, The APPELLANT is
SAYING that the Plea STATEMENT cannot be used because it was
Not Made a part of the record, in Trial court, so this case
Must be REVERSED. see BROWN V. STATE, 290 GA 50 (2011),
THE Record shows UNDISPUTEDLY that the Trial court did
Not FULLY inform Brown of his Boykin rights on the record
during the Plea hearing. Moreover, the STATEMENT by BROWN'S
Counsel at the hearing in which counsel acknowledged HAVING
advised Brown of his "legal and constitutional rights WAS
Not, in and of itself, sufficient to establish that Brown had been
INFORMED of his boykin rights, see Wilson V. Kemp, 288 GA 779 (2011),

in obivstate 230 GA APP 476 (1998), can be read to indicate that a completed Form alone is necessarily sufficient establish the voluntariness of a Plea, it is hereby overruled). To the contrary, the record must contain some affirmative evidence that either the Trial court or trial counsel entered into colloquy with defendant and explained all three of his Boykin rights. [cit]' state v. Hemenway 282 GA 511 (2007), see also King v. state, 270 GA 367 (1998), as in state v. Cooper, 281 GA 63 (2006). A Plea statement Form signed by a defendant can be used to show that a guilty plea is knowingly and voluntarily entered when the Plea statement is placed into the record and combined with a colloquy, as in this case the Plea statement Form was never made a part of the record and combined with a colloquy.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing APPELLANT'S AMENDMENT brief to STATE'S RESPONSE, has been served upon APPELLANT, CARROLL R. CHISHOLM, JR. Solicitor-General, 325 E. Washington St. Room 580 Athens, GA 30601,

This 6th day of November 2014,

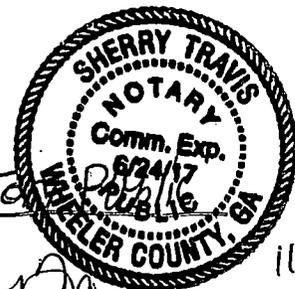
Zi Clerk Court of Appels of Georgia

47 TRINITY AVE,
suite 501

ATLANTA, GA 30334

(2)

Sherran



11/06/14

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 18, 2014

To: Mr. Tommy E. Morgan, GDC1128356 H-2, Wilcox State Prison, Post Office Box 397, Abbeville, Georgia 31001

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

Court of Appeals Case Number and Style: _____

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

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

November 13, 2014

To: Georgia Court of Appeals
Office of the Clerk
47 Trinity Ave., S.W.
Suite 501
Atlanta, Ga. 30334

RECEIVED IN OFFICE
2014 NOV 17 PM 3:44
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

From: Tommy E. Morgan, GDC#1128356
Wilcox State Prison (H-2)
P.O. Box 397
Abbeville, Ga. 31001

RE: Notice of Appeal From the Superior Court
of Dade County; Case No. 02-CR-12746
STATE OF GEORGIA vs. Tommy E Morgan (Pro Se)
- IN FORMA PAUPERIS STATUS -

Dear Clerk,

I'm bringing forth an Appeal From the Superior Court of Dade County, Pro Se. I was determined to be an indigent within the meaning of the Law. IF I am required to submit another Informa Pauperis Affidavit or Declaration of Poverty with my forth coming application, please notify me to do so.

Also please inform me when your office receives the case record for docketing in order for me to bring about my appeal in a timely manner.

Thank you for your assistance.

Sincerely, Tommy Morgan

IN THE SUPERIOR COURT FOR THE COUNTY OF DADE
STATE OF GEORGIA

STATE OF GEORGIA

CASE FILE NUMBER 02-CR- 12746

Vs.

MOTION FOR OUT OF TIME APPEAL

TOMMY E. MORGAN
DEFENDANT.

NOTICE OF APPEAL

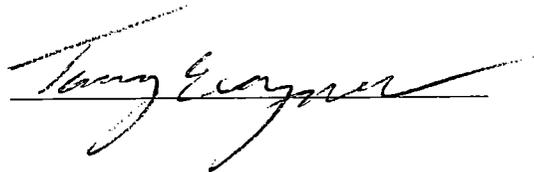
COMES NOW, Tommy E. Morgan, the Defendant in the above styled action, and hereby gives Notice of his Appeal to the Georgia Court of Appeals from the denial of his **Motion for Out-of-Time Appeal** by the Honorable Jon Bolling Wood, Judge of the Superior Court of Dade County, that was entered on the 28th day of October, 2014,

The Clerk will please include the entire record on appeal, including all documentary evidence admitted, including trial transcripts and all pleadings submitted to the Court. Nothing should be omitted from the record on appeal, including Defendants Motion for Out-Of-Time-Appeal.

Jurisdiction of this appeal is vested in the Georgia Court of Appeals pursuant to the Georgia Constitution 1983, Article 6, Section 6, and Paragraph 3.

This 13 day of November, 2014.

Respectfully submitted,



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 parties listed below by depositing a copy of the same in the United States Mail in a properly addressed envelope with adequate postage thereon to ensure that it reaches its destination.

Superior Court Clerk
of Dade County
255 W. Crabtree St.
Suite 103
Trenton, Ga. 30752

Georgia Court of Appeals
Office of the Clerk
47 Trinity Ave. S.W.
Suite 501
Atlanta, Ga. 30334

Superior Court Judge
Hon. Jon Bolling Wood
P.O. Box 1185
La Fayette, Ga.
30728-1185

This the 13 day of November, 2014.

Tommy R. Morgan
Tommy R. Morgan
GDC # 1128356
Wilcox State Prison
P.O. Box 397
Abbeville, Ga. 31001

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

November 18, 2014

To: Ms. Sara D. Murray and Mr. John T. Fisher, III, 34 Glenloch Lane, Stockbridge, Georgia 30281

Docket Number: A15D0054 **Style:** Sara D. Murray, et al. v. Federal National Mortgage Association

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: A Notice of Intent was filed in this Court on October 15, 2014. No Motion to Dismiss filed with this Court.**

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

FORM 4 - NOTICE OF FILING CERTIORARI

COURT OF APPEALS OF GEORGIA

RECEIVED IN OFFICE
2014 NOV 18 PM 2:27
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

APPELLANT *
vs. * CASE NUMBER

APPELLEE * A15D0054

NOTICE OF FILING PETITION OF CERTIORARI

Comes now SARA (Appellant/Appellee) in the above appeal and shows he/she this day filed an application for certiorari with the Supreme Court of Georgia.

This the 18 day of NOV., 2014.
Sara B. Murray / John T. Fisher, III (Sign your name.)
340 GLENKLOCH LN. STOCKBRIDGE, GA. 30034

(Your complete address.)

CERTIFICATE OF SERVICE

I certify that I have this day served MECALLA RAYMER LLC (opposing party or attorney) with a copy of this Notice of Filing Petition of Certiorari by _____ (hand delivery/ mailing a copy first class mail postage prepaid) to him/her at: JONATHAN KASPER 900 HOLCOMB BRIDGE PKWY ROSWELL, GA. 30076

(complete address of party served).

This the 18 day of NOV., 2014.
John T. Fisher, III (Sign your name.)

IN THE COURT OF APPEALS
STATE OF GEORGIA

SARA D. MURRAY

Applicant,

Application No. A15D0054

v.

Jury Demand Ninth time Asking

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Respondent.

DENIAL OF MOTION TO DISMISS

Sara D. Murray/John T. Fisher, III
340 Glenloch Lane
Stockbridge, Georgia 30281
678-289-6031/404-293-2653

November 17, 2014

RECEIVED IN OFFICE
2014 NOV 18 PM 2:26
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



Court of Appeals of Georgia

November 18, 2014

TO: Mr. Carey Ross, GDC440745, Hays State Prison, Post Office Box 668, Trion, Georgia 30753

RE: **A14A2317. Carey Ross v. The State**

CHECK RETURN

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

CASE STATUS - DISPOSED

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

CASE STATUS - PENDING

- The above referenced appeal is pending before this Court. The appeal was docketed in the September 2014 Term and a decision must be rendered by the Court by the end of the January 2015 Term which ends on April 14, 2015.**

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

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

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

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

TO: Court of APPEALS OF GEORGIA

Date: 11-12-14

From: Carey Ross #440745

Court of Appeals: Case: # A14A2317

I writing to ask have the first
Division make a Opinion in my case.
Could you please let me know.

Thank you!

Carey Ross
Carey Ross #440745
Mays State Prison
P.O. Box 668
Trion, Ga. 30753

RECEIVED IN OFFICE
2014 NOV 18 AM 11:40
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

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

November 20, 2014

To: Mr. Dexter Lewis, GDC898346, Wilcox State Prison, Post Office Box 397, Abbeville, Georgia 31001

Docket Number: A15D0121 **Style:** Dexter Lewis v. The State

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

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. Rule 6.**
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and/or 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: **Please indicate which order is being appealed.**

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

COURT OF APPEALS OF GEORGIA

DEXTER LEWIS

v

THE STATE OF GEORGIA

* CASE NO: A15D0121

RECEIVED IN OFFICE
2014 NOV 19 PM 3:47

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

11/15/2014

Dear, Clerk

Please add Exhibit "F" to the other exhibits I have provided the court had evidence that both Sentence 99R716 and 2010R0264 are running concurrent to each other, therefore ~~the Superior Court of Dougherty County and the Superior Court of Fayette County~~ both erred when sentencing the plaintiff to consecutive 2 year sentence for violating probation in which he was incarcerated on 1/31/2013. However in case 2010R0264 the Docket Status the plaintiff is a parolee but in docket 99R716 his docket status is an inmate with a consecutive 2 year sentence for violation of probation.

CERTIFICATE OF SERVICE

I certify that I have served the Clerk of the Court of Appeals of Georgia with a true and foregoing copy of this document.

This 15th day of Nov 2014.

Respectfully Submitted by:
Dexter Lewis
[Signature]

EXHIBIT F

GEORGIA DEPARTMENT OF CORRECTIONS



Nathan Deal
Governor

SENTENCE COMPUTATION REPORT
11/14/14 10:10 AM



Brian Owens
Commissioner

Computation Reason :
Computation Comments :

Name: Lewis, Dexter Germaine	GDC#: 898346	Case Number#: 796437
Alias: Shelley, Cornel P; Shelley, Cornel ; Shelly, Cornel P; Lewis, Dexter G; Lewis, Dexter Germaine; Lewis, Dexter J; Lewis, Dexter		
Previous Case Number(s): 796437, 772373		
Race: BLACK	Sex: M	DOB: 12/28/1972
Sex Offender: N/A		SSN#: 256114410
FBI#: 806568WA6	SID#: 2242253X	Assigned Location: WILCOX STATE PRISON
Current Security: MEDIUM	Education Level: 15	

Tentative Parole Date: _____ Actual Parole date: _____ Maximum Release Date: **08/11/2016**

Boot Camp

No Boot Camp decisions have been made for this offender.

Docket#: 99R716	County: DOUGHERTY COUNTY	Docket Status: INMATE
Sentence date : 06/11/1999	Sentence Start Date: 01/03/2009	MRD: 08/11/2016
Probation Start Date:	Sentence End Date: 08/11/2016	Special Considerations: NONE
Judge: LOCKETTE, WILLIE E	District Attorney: HODGES	Consecutive To: 98R1287
SB 440 :	SB 441:	

Count :1	BAD CHECKS - MISD	Consecutive To :
Sentence Run Type:	GUILTY - SENTENCE	Crime Committed date:
Sentence Length :	0 Years, 12 Months, 0 Days	Serv Time: 0 Years, 0 Months, 0 Days
Comments:		

Count :2	BAD CHECKS - MISD	Consecutive To : 1
Sentence Run Type:	GUILTY - SENTENCE	Crime Committed date:
Sentence Length :	0 Years, 12 Months, 0 Days	Serv Time: 0 Years, 0 Months, 0 Days
Comments:		

Count :3	BAD CHECKS - MISD	Consecutive To : 2
Sentence Run Type:	GUILTY - SENTENCE	Crime Committed date:
Sentence Length :	0 Years, 12 Months, 0 Days	Serv Time: 0 Years, 0 Months, 0 Days
Comments:		

Count :4	BAD CHECKS - MISD	Consecutive To : 3
Sentence Run Type:	GUILTY - SENTENCE	Crime Committed date:
Sentence Length :	0 Years, 12 Months, 0 Days	Serv Time: 0 Years, 0 Months, 0 Days
Comments:		

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 20, 2014

To: Mr. Edward T. Ridley, GDC570139 L4-107-B, Johnson State Prison, Post Office Box 344, Wrightsville, Georgia 31096

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

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court. There is nothing in this Court to append your copy to.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Copy

IN THE SUPERIOR COURT OF CRISP COUNTY GEORGIA
STATE OF GEORGIA

EDWARD TYRONE RIDLEY,
Petitioner,

Case No. 13R-149

v.
BRIAN OWENS, Commission of D.O.C.,
Respondent

Court denied on 10/31/14

RECEIVED IN OFFICE
2014 NOV 19 PM 3:47
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

EMERGENCY NOTICE OF APPEAL

Petitioner, hereby notify the Clerk of Court that he wishes to appeal the denial of his Emergency Permanent Injunction 17-9-4, Rule 33.10 filed by Clerk on October 9, 2014 denied by Judge Hughes on October 31st 2014, pursuant to the rules of Appellate Procedure. The Court Amended this motion from Civil to Criminal on its denial and ruling under case no. 13R-149.

ERROR ON APPEAL

(1) There is no need now for indigent affidavit for filing civil actions since Judge Hughes denied under criminal case no. 13R-149 on 10/31/14.

(2) As stated in No. 1 of the motion, the Court did not have jurisdiction to convict Ridley of his 1995 case, Case No. 95-2844 as to his Florida sentence on 7/29/96, where Ridley was not required to 42-1-12. Then or in any future actions according to Ridley's understanding of his 7/29/96 contract.

(3) Ridley never was warned by Florida Court, MA., Nobody to been illegally placed on Fla. S.O. Registry without Due Process around 2003 as a violent, S.P., C.M., C.S.O., made his case with affects of the Scarlett letter, and to kill of a marking Bird.

(4) Congress in 2006, did away with all state S.O. registries.

to enact 42 USC 16401 the National S.O. Registry to fill the gaps that states left out. Congress passed the National SORA, a person that violated the terms would only receive "up to" 10 years in Prison, NOT 30 yrs. Punishment Ridley was illegally convicted when the Court, Judge, DA, Public Pretender knew Congress enacted 16901, that did away with 42-1-12, and Fla. 943.0435.

Ridley had to go to a Hearing in Fla. never done to date in Georgia or Florida nor Alabama before the National Law was put into Law by US Congress.

Ridley, was only required on 7/29/96 to give DNA to FDLE "NOT" to register then or in future and can demand that the Court "FORCE" State's of Ga, Fla., Ala. To Abide by Ridley Fla. Contract" or to WITHDRAW His Fla. Contract on Emergency basis or this Court Issue Emergency Injunction and Grant Ridley Release From State Custody. Retrain anyone under 11th Cir. Court of Appeals Jurisdiction to refrain from Convicting and Forcing Ridley to 42-1-12.

The Judge is bias, Corrupt with improper motives to allow the State to continue to violate Ridley Civil and U.S. Constitutional Rights Protected under First, Fifth, Sixth, Eighth, Thirteenth, 13th and 14 Fourteenth Amendments subjected Ridley to Slavery and All of Fla, Ga. and Ala. Constitutions and Articles.

This Appeal can be combined with Appeal of Ridley v. The State A14A1879 if the Appeal Court Deem necessary.

Ridley have shown error why Injunction must be Granted and Pray this Court use his Amended Brief in Case A14A1874 and all other motions filed answered or unanswered by lower Court. Clerk of Superior Court must Immediately forward

Everything that's now in record that have not been sent to Court of Appeals Nothing con. the d. All on A Emergency Expedited basis.

Executed this 13th day of November 2014

Respectfully Submitted
Mr. Edward Tyrone Ridley, 590139
Mr. Edward Tyrone Ridley, 590139
Schanson State Prison
P.O. Box 344
Wrightsville, Ga. 31096

Proof of service

I do hereby certify that I have on this date served a copy of the foregoing on the respondent by placing same in stamped properly addressed envelope to secure first class delivery. Further a Carbon copy of the same mailed to Georgia Court of Appeals, 47 Trinity Ave, Ste 501, S.W. Atlanta, Ga. 30334. So the lower Court will not claim not timely filed by Ridley as in

PAST.

Served on
Denise Fachini, D.A. Office
510 N. 7th St.
P.O. Box 5510
Cordale, Ga. 31015

Sincerely

Mr. Edward H. Ridley 590139
Pro. se Petitioner/Defendant

Page 3

Copy

IN THE COURT OF APPEALS, STATE OF GEORGIA HAYWARD, RIDLEY V. THE STATE

OBJECTION TO DENIAL OF MANDAMUS

Appellant, prose, object of the denial of the Issue of Emergency Mandamus, pursuant to Rapp, P. Ridley cite that Honda statute 930435 that show 930435 the evidence clearly indicate that the requirements imposed by 930435 did not exist and were not contemplated, when Ridley entered into his Plea Agreement. The withdrawal or forcement of his 1996 Plea should be permitted where fairness and justice require it. See Macker v. State 500 So. 2d 256, 258 (Fla. 3d DCA 1986) (citation omitted). 943, 0435 proves a manifest injustice have occurred. See LeDuc v. State, 415 So. 2d 721, 722 (Fla. 1982). (Hayward v. Cantakaris, 382 So. 2d 1197, 1203 (Fla. 1980). State v. Witta, 744 So. 2d 1232 (1999); 24 Fla. Weekly D2546; 440 US 289 744 FORCE CONTRACT "Brady v. US, 397 US 742 (1970) Kercheval v. US 274 US 226, 475, Ct. 552, to be vacated, 539 F. 3d 587, (1995) State v. Luster, 204 Ga. App. 15, State v. Pluckett, 277 Ga. App. 15 (2006). State v. Giles, 248 Ga. App. 315, (2002) Haywood v. Diaz (2006). State v. Johnson, 467 US 804 (1984). Santa Barbara v. New York, 404 US 257, 262 (1971) Brown v. State Case No. A13A1440 (Oct. 9, 2013); US v. Robertson, 698 F.2d 703 708 (5th Cir. 1983); US v. Adams, 634 F.2d 830 (5th Cir. 1981)

U.S. District Court (1983)

Conclusion

Ridley have shown clear law why mandamus was erred by court, and must be issued immediately demanding the state of Georgia, Florida, Alabama abide by Ridley 7/29/96 contract to only provide DNA to FILE NOT registers any type sex offender from OR in any future actions as contract, filed in good faith
Executed this 1st day of November 2014

Respectfully submitted

Mr. Edward T. Ridley, 570139
South State Prison
P.O. Box 726
Gainesville, Ga. 30627

Proof of Service

I do hereby certify that I have served a

Carbon copy of the foregoing objection to denial of mandamus by showing same in envelope to be mailed Plaintiff to Bradford Ridley, Assistant District Attorney, Ensign Courthouse, 516 North 7th Street, Clark, Ga. 30135. This 1st day of November 2014

Signature of Mr. Ridley
570139

Pro de Plaintiff

RECEIVED IN OFFICE

2014 NOV 19 PM 3:47

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Clerk,
Hello
Ridley V. The State
A14A1879

Will you please send copy this letter other
side and notice of appeal. So CNSA can
can contact say I haven't filed a timely
appeal for this denied motion when I file
motion he compare a copy for you
I do appreciate if you send -
back to me marked filed you receive
this

Thank You
Edward J. Ridley 570139
Edward J. Ridley 570139

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 20, 2014

To: Mr. Mike Redford, Jr., Unit 3-C-3, Douglas County Jail, 8472 Earl D. Lee Boulevard, Douglasville, Georgia 30134

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

DR. MIKE REFFORD, JR, ISD

UNIT 3-C-3

DOUGLAS COUNTY JAIL

8472 EARL D. LEE BLVD

DOUGLASVILLE, GA 30134

11/13/14

RE: MS. ANNA VAUGHAN INTERCEPTION OF CRIMINAL DEFENSE MATRS

GER GA COURT OF APPEALS

17 TRINITY AVENUE, S.W. SUITE 501

ATLANTA, GA 30334

TO WHOM IT MAY CONCERN

I NEED GBT INVESTIGATION AND AN ARREST WARRANT ISSUE AGAINST

MS. ANNA VAUGHAN ASSISTANT DISTRICT ATTORNEY, DOUGLAS

COUNTY DISTRICT ATTORNEY'S OFFICE, 8700 HOSPITAL DRIVE, DOUGLASVILLE

GA 30134. MS. VAUGHAN CAME TO DOUGLAS COUNTY JAIL AND BRIBED

SOMEONE WORKING IN THE MAIL ROOM ON OR ABOUT OCTOBER 27, 2014

TO INTERCEPT A LARGE BROWN ENVELOPE CONTAINING THE FOLLOING

2. CERTIFICATES OF IMMEDIATE REVIEW TO BE SIGNED BY HONORABLE

ROBERT J. JAMES FOR APPEAL IN THE GEORGIA COURT OF APPEALS AND

3 NOTICE OF APPEALS.

2. CERTIFICATES OF IMMEDIATE REVIEW TO BE SIGNED BY HONORABLE

ROBERT J. JAMES FOR APPEAL IN THE SUPREME COURT OF GEORGIA

AND 3 NOTICE OF APPEALS.

3. COPIES OF MOTIONS TO DISQUALIFY MS. ANNA VAUGHAN FOR

PROSECUTORIAL MISCONDUCTS PLUS OTHER MISCELLANEOUS MOTIONS.

MS. VAUGHAN STATED, "IF I CAN'T FIGHT WITH LAW, I CAN SHOW

YOU THAT I KNOW HOW TO FIGHT SMART." INTERFERING WITH JUSTICE

STATES THAT IS A FEDERAL OFFENSE AND TAMPERING WITH STATE

CRIMINAL PROCEEDINGS IS A CRIME.

JAMES SANCERBY

DR. MIKE REFFORD, JR, ISD

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2014 NOV 19 PM 3:56
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COURT OF APPEALS OF GA

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 21, 2014

To: Mr. Eugene Marlin, GDC778886 D2-15B, Autry State Prison, P.O. Box 648, Pelham, Georgia 31779

Case Number: Lower Court: County Superior Court

Court of Appeals Case Number and Style:

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

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

DEAR MR/MRS

MY NAME IS EUGENE MARLIN GOZ # 778886 AN INMATE AT AUTRY STATE PRISON PEHAM GEORGIA. WITH ALL DUE RESPECT I AM NOT A LAWYER THAT'S WHY I WAS APPOINTED ONE TO DO MY DIRECT APPEAL IN WHICH I ASKED THAT HE FAIL THAT THERE EXISTED A FATAL VARIANCE IN THE ALLEGATION OF THE INDICTMENT AND EVIDENCE ADMITTED AT TRIAL. IN WHICH HE DIDN'T BECAUSE HE ADMITTED HE DID NOT UNDERSTAND WHAT I WAS TALKING ABOUT AND DID NOT TRIAL IT IN THE COURT OF APPEALS. IN WHICH IF HE HAD THERE'S A PROBABILITY THE OUTCOME OF THE PROCEEDING MAY HAVE BEEN DIFFERENT. IN WHICH I RAISE IN STATE HABEAS CORPUS. IN WHICH I SHOWED AND PROVED BY THE RECORD INEFFECTIVE ASSISTANCE OF COUNSEL WHICH IS PRESENTED IN THE RECORD. AND SHOW I MET THE TWO PRONGS IN STRICKLAND V. WASHINGTON IN WHICH JUDGE A VARIANCE WATO DENYED SAYING I DIDN'T MEET THE TWO PRONGS OF INEFFECTIVE ASSISTANCE OF COUNSEL WHEN THE RECORD SPEAKS FOR ITSELF. APPELLANT COUNSEL LON P. KEMENESS ONLY RAISE CLAIMS I ASK HIM TO. EXCEPT THE MAIN AND MOST IMPORTANT ONE. IS IT MY FAULT I AM NOT A LAWYER AND DON'T KNOW THE LAW. THAT'S WHY THE STATE APPOINTED ME COUNSEL SOMEONE WITH SKILLS TRAINING AND KNOWLEDGE OF THE LAW WHO IS SUPPOSE TO BE MORE COMPETENT IN LAW THAN ME A LAY MAN. WHAT CAN BE DONE ABOUT A MISZARRERE OF JUSTICE WHERE VERY IMPORTANT AND VERY VITAL CLAIMS

COULD AND SHOULD HAVE BEEN RAISED BUT NEVER WERE
AS I SAY I AM A LAY MAN WHO HAVE REPRESENTING MYSELF
PRO-SE FOR 10/2 YEARS. I JUST WANT TO KNOW
IS IT TOO LATE FOR ME TO DO ANYTHING MORE
OR AMEND MY APPEAL WHEN I DIDN'T KNOW ANYTHING
ABOUT THE LAW OR PROCESSES OF DIRECT APPEAL AS WELL
AS AN INCOMPETENT ATTORNEY OR ONE WHO JUST
DIDN'T CARE. NOT ASKING FOR LEGAL ADVISE JUST
AN ANSWER TO A IMPORTANT QUESTION. BY LAW CAN
I FAIL A SUZZESSES STATE HEARERS CORPUS THE
SECOND TIME TO SHOW AND PROVE THERE WAS A GROSS
MISZARRAGE OF JUSTICE INCLUDING NEWLY DISCOVER
EVIDENCE THAT SHOULD HAVE BEEN RAISE THAT WAS
NOT AND BEING A PRO-SE LAY-MAN NOT KNOWING THE
LAW OR EDUCATED ON LAW LIKE THE TRAIN ATTORNEY
THE STATE APPOINTED ME IN SOM PLEASE ANSWER
THESE QUESTION FOR ME PLEASE NOT ASKING FOR
LEGAL ADVISE JUST ANSWERS THIS 19 DAY OF NOVEMBER 2

RESPECTFULLY

K/Eugene Marin

EUGENE MARIN COZ# 998886

PRO-SE

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 21, 2014

To: Mr. Terron Nicholas Taylor, GDC1001100387, Coastal State Prison, P.O. Box 7150, Garden City, Georgia 31418

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: A15A0111. Terron Nicholas Taylor v. The State

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

- There is no case pending in the Court of Appeals of Georgia under your name.**
 - A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
 - The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
 - An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
 - An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
 - Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
 - Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is:
 - 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.**
- Our docket indicates your attorney of record as Mr. Louis Turchiarelli, Esq., 305 Lawrence Street, N.E., Suite 100, Marietta, Georgia 30060.**
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

NOV 17 2014

IN THE COURT OF APPEALS

STATE OF GEORGIA

COURT CLERK
CLERK COURT OF APPEALS OF GA

GENERAL COUNCIL ADMINISTRATOR
COURT OF APPEALS OF GA

2014 NOV 20 PM 4:00

RECEIVED IN OFFICE

TERRON NICHOLAS TAYLOR ~~SCANNED~~

Appellant

Appeal No. A15AD014

G.D.C. # 1001100387

D.O.B. 04.20.1945

vs.

STATE OF GEORGIA

AFFIDAVIT AND RESPONSE TO BRIEF OF APPELLANT

I, Terron Nicholas Taylor, Affiant herein, a flesh and blood man being first duly sworn depose, say, and declare under Penalty of Perjury and by my signature that the following facts are true, correct, and complete to the best of my knowledge and belief and being competent to testify to the same will do, SO HELP ME GOD:

THAT, Affiant is currently in custody at COASTAL STATE PRISON (P.O. Box 7150 GARDEN CITY, GEORGIA 31418).

THAT, Affiant is a party to the above-referenced appeal.

THAT, there are one or more confictions to the record and transcript in the BRIEF OF APPELLANT filed in this Court on October 20, 2014 by and through the current Counsel for the Appellant, Mr. Louis M. TURCHIARELLI.

THAT, Affiant was tried beginning June 17, 2013 and the Jury returned a guilty Verdict on June 20, 2013.

THAT, the incorrect Year is indicated within the BRIEF OF APPELLANT (Pgs. 6, 8) regarding the dates of trial.

THAT, the State did not present a pair of "big black cumbersome work shoes,"

as stated in the Brief (Brief Pg. 37) but a Pair of "A JEANS WASHED TYPE OF BLUE JEANS TYPE COLOR" [Vol. II Pg. 157, L. 9-10, Trial Transcript (T)].

THAT, the shoes were alleged to be "skateboard" shoes and not a work shoe, with other identifying markers.

THAT, Affiant request that Counsel for the Appellant review the record and transcripts thoroughly and correct these matters in a timely manner.

THAT, Officer Serkedakis testified that he did not know who took the shoes from Affiant which also conflicts with what is mentioned in the BRIEF OF APPELLANT (Pg. 33 P. 2). Also see (Vol. II, Pg. 158, L. 13-17; Pg. 160, L. 4-9).

THAT, there appears to be no discovery notice or any other request by the State prior to trial concerning entrance of State's Evidence #5, #6, and #7 which may also be appealable. Observe the record and demand for such in Affiant's CONSOLIDATED MOTION AND DEMANDS filed in this Court October 16, 2012.

THAT, there was a "rogue" element in the case. An Agent working on behalf of the State took it upon herself to go and get the clothes allegedly belonging to Affiant from the jail which may have been highly prejudicial to the Affiant considering that the Search and Seizure was so close to the trial date and the verification of the Return wasn't made until three days after the seizure. See MOTION FOR NEW TRIAL Transcript Pg. 15, L. 14-19, May 8, 2014. See also: SEARCH WARRANT # 13-SW-0552 WITH AFFIDAVIT / RETURN OF SEARCH WARRANT & INVENTORY # 13-SW-0552E009349, MAGISTRATE COURT OF COBB COUNTY.

THAT, Affiant has notified Counsel for the Appellant and the Representative for the State in the above-referenced appeal of the above-mentioned matters (Ref. DEFENDANT'S RESPONSE TO APPELLANT'S BRIEF IN COURT OF APPEALS-APPEAL # A100111; filed in Cobb Superior Court on October 26, 2014; Case # 12-9-3746-33.

THEFORE, let this AFFIDAVIT AND RESPONSE TO BRIEF OF APPELLANT be heard in this Honorable Court and by all Parties to the above-mentioned appeal.

Further Affiant saith naught Dated this 13th day of November, 2014.

[Signature]
Teron Nicholas Taylor, Affiant
G.B.L. # 1001100347
BLDG H-A / Rm. 120
Local State Prison P.O. Box 7150
Garden City, GA 31414

Attorney for Appellant:
Louis M. TURCHARELLI, Bar # 714639
305 Lawrence Street
Suite 100
Marietta, GA 30060

JURAT

Subscribed and sworn to before me
this 13 day of November, 2014.
[Signature]
Notary Public



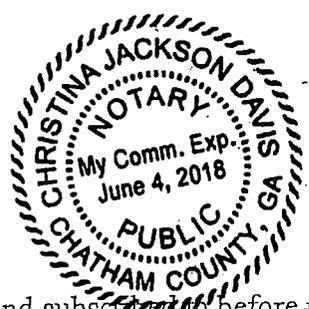
CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing party(ies) to this action with a true and correct copy of the with and foregoing AFFIDAVIT AND RESPONSE TO BRIEF OF APPELLANT by placing the same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and addressing it to:

DANIEL QUINN, A.D.A.
APPEAL DIVISION
70 Haynes Street
Marietta, GA 30060

LOUIS M. TURCHIARELLI
205 Lawrence Street
Suite 100
Marietta, GA 30060

This 13th day of November 2014



Jerry Nicks Jr
Pro se

Sworn to and subscribed to before me this 13th day of November 2014

Christina Jackson Davis
Notary Public

My commission expires: June 4, 2018

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2014 NOV 20 PM 4:00
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

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

Date: November 25, 2014

To: Mr. Michael Tucker, GDC633157, Muscogee County Prison, Post Office Box 84041, Columbus, Georgia 31908

Docket Number: A15A0033 **Style:** Michael Tucker v. The State

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

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. An improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service must include the complete name and mailing address of the District Attorney and you should provide a copy of your filing to the District Attorney.
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

IN The Court OF Appeals
State OF Georgia,

Michael Tucker
Appellant Pro-se

Vs.

Appeal Case # A15A0033
Superior Court Case#

State of Georgia
Appellee
2D13SUCR779

APPELLANT'S Brief And Enumeration
OF ERRORS,

Michael Allen Tucker C.O.C. 633157
Muscooge County Prison
P.O. Box 84041
Columbus, Ga, 31908

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COURT OF APPEALS OF GA

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2014 NOV 25
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COURT OF APPEALS

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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

1) Statement of Facts

ON January 7, 2014, I enter a Plea of Guilty Negotiated for 6 years on count 1 and on count 2 Valle Pros, with a 1,000 Restitution Payable to a Mrs, Sherry Kirby at 418 Eagleview Drive, Ringgold, Ga, 30736,

ON June 6, 2014 Mr. Tucker had filed a motion to Clarify Sentence, ON April 14, 2012 I turn myself in to Catosa County Sheriff's Dept. and was Booked in and charge with Theft by Taken of a Motor Vehicle, ON April 17, 2012 I was Released to D.O.C. To complete my 3 years sentence, ON 8-7-2013 Mr Tucker was Return to Catosa Co. Sheriff's Dept. on said warrant. and ReBooked in. I enclosed in a Copy of Court Transcripts, See Pages 6-7 Due to the unusual complexity of attempting to compute the credit for time served, the exact amount of time to receive credit for was not set in stone at the plea hearing bid, However, Judge Mr Van Pelt Stated for the record that should Mr. Tucker encounter difficulty receiving credit for time served awaiting trial to contact him, also it states Mr Tucker said Judge I will receive credit from April 14, 2012. Mr. Tucker filed a motion to Clarify Sentence for Time Credit, which was denied,

ON April, 15, 2012 I was appointed Mr William Lanphier whom worked for the Public Defenders Office

At that time, Mr Tucker made several pleas to proceed with the case, However, he never received any response, ~~upon~~ inclosed one letter trying to contact Mr Lanphier to The Superior Court Clerk and The Public Defenders office Mr Dunn, Along with the State Bars of Georgia. With Mr Lanphier did not respond to either, Mr Tucker found out upon Re turning From D.O.C. to Catoosa Co. Sheriff's Department, He was Reappointed Ms Kristin Patten, For the Public Defenders office. And was told Mr Lanphier was no longer with The Public Defenders office. I was never informed By The Public Defenders office.

Mr Tucker only took The Plea (because) He was told By Ms. Kristin Patten if found Guilty He (I) would do at least 20 years. She stated I would Received all my time credit. See Transcript.

I Later found out Ms Kirby stated she had found a Large amount of the item she said Mr Tucker took. Also she call The District Attorney Ms. Leanna Granillo, and ask to Drop Charges. she was told if so, The State would take them over. I was never told By my attorney Ms. Kristin Patten. Ms Kirby and I Lived together. she can also be contacted By Phone at. 706-935-2424 -(423) 580-0386 To state The above

ON July 22, 2014, I filed a motion to Remold Sentence. With was not Ruled on, It was sent to the Appeals Court with The Motion to Clarify Sentence.

I Later found out Count 2 was Nolle Pros. That Count was Theft By taken on items.

I was sentence to Count 1 Theft By Taken of a motor Vehicle. Ms Kirby states on late 2012 There was no damages to the car. The value of the car was only 1,500⁰⁰

Under the Plea The Restitution was For Count 2 with was dismiss, IF I was sentence to Count 2 it only carries 1-to 5 years in Prison, I was sentence to 6 years on count one and 1,000⁰⁰ Restitution That does not consist of Count 2

My motion to Remold sentence states, when the state Nolle Prossed Count two all associated Restitution thereon was as well terminated, The 1,000⁰⁰ Restitution should be omitted.

~~OR~~ OR sentence to Count 2 and NOT Count 1 with will carry 1-to 5 years not 6 above the guide lines.

ON 3-11-14 I filed a motion to Modify sentence. Grounds on my 3 years sentence to D.O.C. I later find out my Warrants states 3 Theft By Taken Warrants were stated as Felonys. (Later I Review Warrants) and I was sentence to D.O.C. For 3 MisDemeanors, Same Attorney as Mr Lanphier I could not contact by mail as stated above Presiding Judge The Judge Van Belt. ON Both case's

Jurisdiction AND Enumeration OF error,

Jurisdiction,

The Court of Appeals of Georgia has proper jurisdiction over this matter as this is an appeal from the final judgment of a Georgia Superior Court in a non-capital felony case,

Jurisdiction of this category of appeal is conferred upon this court under the provisions of Article VI, Section V, Paragraph III of the Georgia Constitution.

Enumeration of Error,

1.) The Courts errors by threaten Mr Tucker to Give max of Guideline if he does not take Plea,

2.) The Sentence is Void By error in Sentencing

3.) The failure to give Mr Tucker the correct Jail Credits.

4.) The Motion to Clarify Sentence and to Remold Sentence will also show many Case Law's and O.C.G.C.

5.) When the Courts knew the impose Sentence of Punishment is illegal And Refuse to correct, The Public Defenders office and they are aware that Mr Lashier was not happy with them

6

See Transcripts and Motions Please.

For these reason, the Defendant Requests this Honorable Court to reverse and or vacate his sentence.

Respectfully Submitted this Day Oct. 21, 2014

Michael Allen Tucker

G. D.C. 633157

10-21-2014

(PRO-SE Standards)

The 11th Circuit has frequently held that the Standards governing the Sufficiency of any petition ~~of~~ any Petition filed Pro-se are to be held with Less Stringent when petition is drafted without aid of Counsel." See, Holsambach V. White, 133 F-3d 1382 (11th circuit 1998) Also McDaniel V Secly For The Dept OF Corr, 2007

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 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 GA.
Suite 501
47 Trinity ~~at~~ Home Ave
Atlanta GA 30334

District Attorney Office
Ms Leanna Granilo
875 LaFayette St.
Ringgold GA 30736

Document(s) Included:

1) Appellants Brief
and Enumeration

This 14 Day of NOV, 20 14

Respectfully submitted,

Michael Tudler
Pro Se

Signature

Print:

GDC#:

Address:

Michael Tudler

Michael Tudler

633157

Muscogee Co. Prison

P.O. Box 84041

Columbus GA, 31908

RECEIVED IN OFFICE
 2014 AUG 18 PM 2:52
 CLERK/COURT ADMINISTRATOR
 COURT OF APPEALS OF GA

Michael A. Tucker
 vs

Case No: 2013-SU-CR 779

Catoosa County
 Ringgold GA.

Cover Sheet.

I talk with The Superior Clerk of Courts, I was told my Notice of Appeal had been sent to you with a copy of my Motion to Clarify Sentence.

I sent ~~to~~ letters and return responses from the Superior Court Clerk to the Judge Mr Van Pelt, I was unable to make copy. They will show I tried many times to contact my attorney Mr. W. Lanphier with the Public Defenders office. The Superior Court Clerk also forward many letters. (NO Return letters) Then I find out upon returning to Catoosa County Sheriff Dept. I was Reappointed an attorney. Mr. W. Lanphier had went into his own practice. And I was never informed. Mr W. Lanphier was appointed to me on 4-15-16 -OR The 17th. of 2012. I was sent Back to D.O.C The Night of 4-17-2012 and Return on 8-7-13 From

O.C. I tried many times to get my arrest report from 4-14-12 and was unsuccessful. Please read all my letter to the court clerk and the Public Defenders office, and many motion trying myself to get back in court.

The second half are copies of warrants, and being sentence to 3 years D.V.C. in O.C. attorney the same Mr. Wilanphier P.D. I requested my warrants on this case and was sent the one's from O.C. with I learn I was charged twice for the same items and the warrants written up wrong. After reading you will see the courts sentence me on 3 ~~years~~ ~~felonys~~ with if Mr. Wilanphier would have listen to me and review the warrants he would have seen it was clearly 3 misdemeanors, not 3 felonys.

I filed a motion to modify my sentence. If I was sentence correctly in O.C. for 3 misdemeanors, I would have been sentence to 3 years this time, not 6 years. Please read and you will see clearly I was sentence twice for not taken the time to review or wrongful sentencing, I pray the Appeals court will rule in my behalf. Thankyou

Also I was told my sentence to Remold
Sentencing was also sent with the package of
my motion to clarify. (Appeal)

The motion to Remold was sent to you
without ~~the~~ ruling on it.

Again all of a sentence wrong.
Also as my motion to clarify I did send other
paper to the Judge Mr Van Delt. (unable to make copies)
They were return to me. I've also include them
to show a better point on my behalf.

Thankyou

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

Date: November 25, 2014

To: Mr. Paul L. Thennes, GDC1000996450 1-44, Georgia Diagnostic and Classification Center, State Prison, Post Office Box 3877, Jackson, Georgia 30233

Docket Number: A14A1348 **Style:** Paul L. Thennes 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 must include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: **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.**

FILED IN OFFICE

MOTION FOR RECONSIDERATION

NOV 21 2014

2014 NOV 24

AM 10:56

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

CLERK, COURT OF APPEALS OF GEORGIA
NOVEMBER 7, 2014

THENNES V. STATE
CASE A14A1348

MOTION FOR RECONSIDERATION

HERE COMES PAUL L. THENNES RESPECTFULLY REQUESTING A RECONSIDERATION OF HIS APPEAL. MR THENNES CONTENTS THAT NO ACTUAL PHYSICAL EVIDENCE WAS FOUND AS A SEARCH WARRANT ISSUED FOR THE RESIDENCE WHERE MR THENNES RESIDED, MR. THENNES'S BLACKBERRY CELL PHONE AND COMPUTER WERE CLEARED BY DETECTIVES FROM ROSSVILLE POLICE DEPARTMENT AND BY WALKER COUNTY SHERIFF DEPARTMENT. NEITHER ITEM CONTAINED ANY PORNOGRAPHIC PHOTOS OF CHILDREN OR TAYLIA CHAPMAN. THE JURY ACQUITTED MR THENNES ON THE GROUNDS THAT MR THENNES DID NOT HAVE SOLE POSSESSION OF THE ALLEGED CD CONTAINING THE IMAGES. THE JURY CONTENTS THAT ANYONE ENTERING OR USING THE ROOM [LIBRARY] WHERE THE COMPUTER THAT MR THENNES USED WAS KEPT COULD HAVE AND DID PLACE THE CD CONTAINING SAID IMAGES.

II

IN THE CASE OF THE ALLEGED RAPE, SODOMY AND CHILD MOLESTATION. NO PHYSICAL EVIDENCE WAS PRODUCED THAT ANY SEXUAL ACTIVITY OR MOLESTATION TOOK PLACE.

EVIDENCE WAS INTRODUCED AT MARTHENNES'S TRIAL.
THAT MARTHENNES HAS MEDICAL PROBLEMS WHICH PREVENTS
MARTHENNES FROM PARTICIPATING IN ANY KIND OF SEXUAL
ACTIVITY, BECAUSE OF DIABETES AND HEART DISEASE THAT
MARTHENNES WAS DX WITH IN 1995 AND DIABETE IN 2006
MARTHENNES ALSO SUFFERS FROM SEVERE ERECTILE DYSFUNCTION.
MARTHENNES EX WIFE TESTIFIED THAT PRIOR TO THEIR DIVORCE
MARTHENNES HAD NO SEXUAL ACTIVITY OR SEXUAL DESIRE BEGINNING
IN 1995 WHEN THE STATED MEDICAL PROBLEMS BEGAN

PLEASE FILE AND SEND ME A STAMPED COPY

RESPECTFULLY SUBMITTED

PAUL L. THENNES^{#1} / 600995450

G.D.C.P

DM 1-44

P.O. Box 3877

Jackson Ga 30223

IN THE COURT OF APPEALS FOR THE
STATE OF GEORGIA

PAUL L. THENNES
Appellant/Defendant

CASE NO A 14 A 1348

STATE OF GEORGIA
Appellee.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE SERVED COUNSEL FOR THE
OPPOSING PARTY IN THE FORGOING MATTER WITH A BRIEF OF
THE APPELLANT BY DEPOSITING SAID COPY IN THE UNITED STATES MAIL
TO THE FOLLOWING ADDRESS

HERBERT FRANKLIN

DISTRICT ATTORNEY

WALKER COUNTY SUPERIOR COURT

P.O. BOX 1125

LAFAYETTE GA 30728

NOVEMBER 7, 2014

RECEIVED IN OFFICE

2014 NOV 24 AM 10:49

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

I am writing you this letter asking you to provide me with a copy of the Court of Appeal hand book, for I can know the rules and regulations your court so if you could please give me some assist in this matter. It would be greatly appreciated. Thank you for your time and I hope to hear from you soon.

Dear Court of Appeal of Georgia

Thank you

Sincerely

Talarius Roebuck

1001015380

P.O. box 668

Trion, GA 30753

COSH OF APPEALS OF GEORGIA
SUITE 501
477 Trinity Ave
Milledgeville, GA 30334

~~_____~~
~~_____~~
~~_____~~
Jont P. Lee
11.23 11

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

November 26, 2014

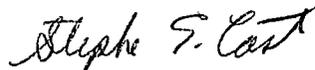
Mr. Clarence Thorpe
GDC72269
Coffee Correctional Facility
PO Box 650
Nicholls, Georgia 31554

Dear Mr. Thorpe:

I am in receipt of your request to file Brief in Support of the Extraordinary Motion for New Trial received November 24, 2014. 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.

I am returning your document to you.

Sincerely,



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

SEC/ld
Enclosure

CLERK OF COURT,
47 Trinity Ave. S.W.
STE. 501
Atlanta GA 30334

Clarence Thorpe
GDC 72269
P.O. BOX 650 CCF
NICHOLLS, GA
31554

DATE;
11/17/014

RE: Request Permission To File Brief In Support Of
Extraordinary Motion For New Trial.

Dear Clerk Of Court

On September 22, 2014 acting pro-se I filed a Notice Of Appeal in the trial court, from the final judgment from the order issued by the Honorable Howard Simms, judge of the Bibb County Superior Court, denying the Petitioner's Motion For Extraordinary Motion for New Trial.

I am writing you to request more time filing my Brief in Support Of My Motion For New trial.

I realized that I mistakenly filed my Response to my motion to dismiss along with my Notice Of Appeal.

Specifically, I request that I be allowed to file my Brief In Support Of Extraordinary Motion For New Trial at this late date.

I have not mentioned in my Response to motion to dismiss that I believe the court should take a hard look at.

I request sufficient time to file my Brief in support of my appeal, or in the alternative a memorandum of law I could file on my own behalf.

Thank You for your consideration. I await your response in this matter.

RESPECTFULLY

Clarence Thorpe

RECEIVED IN OFFICE
2014 NOV 24 AM 10:48
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

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

Date: November 26, 2014

To: Mr. Sammy L. Richards, 530 Prenston Boulevard, Ellenwood, Georgia 30294

Docket Number: A15A0538 **Style:** Sammy Richards v. Wells Fargo Bank, N.A., et al.

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

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

Delivered By Priority Mail No. _____

RECEIVED IN OFFICE
2014 NOV 25 PM 3:37
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

**IN THE COURT OF APPEALS
STATE OF GEORGIA**

Sammy L. Richards)

Appellant,)

) **CASE NUMBER: A15A0588**

) Superior Court Case No. 2011-CV-0513 1-6

) **Former Appellate Case: A13A1678**

vs.)

Wells Fargo Bank, N.A. et al,)
Appellee)

AMENDED MOTION FOR ORAL ARGUMENT

Pursuant to Appellate Rules 28 (3) (a), Appellant amends his original request made on or about November 14th, 2014 for Oral Argument. Pursuant to this court's notice given on or about November 21, 2014, Appellant's combined motions were not permitted. Wherefore, Mr. Richards seeks by this separate motion to amend and request for an oral argument to support his appellate brief, *nunc pro tunc*.

Appellant seeks assistance by an attorney who may present his brief and Oral Argument on behalf of Mr. Richards.

The Appellant has given notice of this request to the Counsel for Appellees to agree on an Oral Argument. Whereas, the Appellee's Counsel has not indicated if they shall oppose this request as stated, herein.

FILED IN OFFICE

NOV 25 2014

CLERK, COURT OF
APPEALS OF GEORGIA

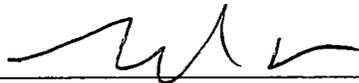
Relief Sought

Whereas, pursuant to the Appellate Rules, Appellant has made a good faith effort to be timely and request before the deadline for an Oral Argument.

Wherefore, now, Mr. Richards asks this Honorable Court to honor by granting his request for an Oral Argument, if required.

Respectfully entered,

EXECUTED THIS DAY ON NOVEMBER 25TH , 2014



Sammy L. Richards, Appellant
530 Brenston Blvd
Ellenwood, GA 30294

CERTIFICATE OF SERVICE

I hereby certify that I have this sent on this Motion for Extension of Time on the 25th day of November, 2014, by first class U.S. Mail prepaid postage the foregoing matters to the parties and their agents located at:

Court of Appeals of Georgia
Clerk of the Court
47 Trinity Avenue S.W., Suite 501
Atlanta, GA 30334
Phone: (404) 656-3450

Dana Garrett Diment
Michael A. Dominy
DIMENT CARROLL LLP
Attorneys for Wells Fargo Bank, N.A.
412 Adamson Square
Carrollton, GA 30117



Sammy L. Richards
530 Brenston Blvd.
Ellenwood, GA 30294

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

Date: November 21, 2014

To: Mr. Sammy L. Richards, 530 Brenston Boulevard, Ellenwood, Georgia 30294

Docket Number: A15A0538 **Style:** Sammy L. Richards v. Wells Fargo Bank, N.A., et al.

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

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. **Your motions were submitted in an improper form (compound 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

Delivered By Priority Mail No. 9114901159815721329190

**IN THE COURT OF APPEALS
STATE OF GEORGIA**

Sammy L. Richards)

Appellant,)

) **CASE NUMBER: A15A0538**

) Superior Court Case No. 2011-CV-0513 1-6

) **Former Appellate Case: A13A1678**

vs.)

Wells Fargo Bank, N.A. et al,)

Appellee)

RECEIVED IN OFFICE
2014 NOV 21 AM 11:10
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

**MOTION FOR EXTENSION OF TIME TO FILE BRIEF & MOTION
FOR ORAL ARGUMENT**

Pursuant to Appellate Rules 23 (a), Appellant seeks an extension of time to enter his brief which is due by October 19th, 2014. Mr. Richards seeks a 30 days for an extension of time until December 19th, 2014 to comply with filing the initial brief.

The Appellant has sought out and requested for the Counsel for Appellees to agree on his request for an extension time. The Appellee's Counsel have not indicated if they shall oppose the extension of time as requested, herein.

Relief Sought

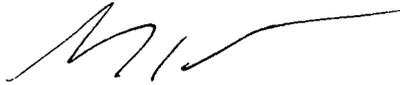
Appellant seeks assistance by an attorney who may present the brief and the Oral Argument on behalf of Mr. Richards.

Wherefore, pursuant to the Appellate Rules, Appellant has made a timely request before the deadline, and asks this Honorable Court to honor

the extension of time to secure a Counsel for support for the purposes indicated herein.

Respectfully entered,

EXECUTED THIS DAY ON NOVEMBER 14TH, 2014



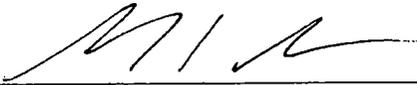
Sammy L. Richards, Appellant
530 Brenston Blvd
Ellenwood, GA 30294

CERTIFICATE OF SERVICE

I hereby certify that I have this sent on this Motion for Extension of Time on the 14th day of November, 2014, by first class U.S. Mail prepaid postage the foregoing matters to the parties and their agents located at:

Court of Appeals of Georgia
Clerk of the Court
47 Trinity Avenue S.W., Suite 501
Atlanta, GA 30334
Phone: (404) 656-3450

Dana Garrett Diment
Michael A. Dominy
DIMENT CARROLL LLP
Attorneys for Wells Fargo Bank, N.A.
412 Adamson Square
Carrollton, GA 30117



Sammy L. Richards
530 Brenston Blvd.
Ellenwood, GA 30294

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 26, 2014

To: Stephanie A. Rockwell, Esq., Speed Seta & Waters, LLC, 114 Stone Mountain street,
Lawrenceville, Georgia 30046

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

Court of Appeals Case Number and Style: _____

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

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

IN THE COURT OF APPEALS
STATE OF GEORGIA

RECEIVED IN OFFICE
2014 NOV 25 PM 3:59
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

ADONIS HILL (DECEASED))
AND LATOYA BONNER-HILL ET.AL,)
Claimant/Appellants,)
vs.)
REPUBLIC SERVICES D/B/A)
SOUTHLAND WASTE SYSTEMS)
Employer,)
AMERICAN ZURICH INSURANCE CO.)
Insurer/Servicing Agent,)
Appellees.)

COURT OF APPEALS
CASE NO. A11A1021

APPELLEES' MOTION FOR RECONSIDERATION

COME NOW, Appellees in the above-styled Appeal, and pursuant to Rule 37 of the Rules of the Court of Appeals of the State of Georgia, hereby timely file their Motion for Reconsideration within ten days of the November 18, 2014 reversal of the Appellate Division of the State Board of Workers' Compensation's judgment below.

I. Introduction.

On or about November 18, 2014, the Court of Appeals of the State of Georgia issued an Opinion holding that the Appellate Division of the State Board of Workers' Compensation erred as a

matter of law in denying death benefits to the Appellants because the decedent was on the Appellees' "premises" at the time of the accident. In reaching this conclusion, the Court of Appeals incorrectly held, contrary to longstanding and well-settled precedent, that the non-exclusive leasehold grant of access to an entrance road by the third party landholder to the Appellees qualified the entrance road as the Appellees' premises for the purposes of the ingress/egress rule.

II. Standard.

Pursuant to Rule 37(e) of the Rules of the Court of Appeals of the State of Georgia, a movant is entitled to a grant of a motion for reconsideration when it "appears the Court overlooked a material fact in the record, a statute or a decision which is controlling as authority and which would require a different judgment from that rendered." Further, Rule 37(a) provides that a motion for reconsideration must be granted when the Court has "erroneously construed or misapplied a provision of law or a controlling authority."

III. Argument.

In the case at bar, the Court of Appeals correctly stated that whether the Appellees owned, maintained, or controlled the

entrance road, such to make it part of the Appellees' premises, was a factual determination. As such, it is a question of fact and the "any evidence" standard of review should apply. "It is axiomatic that the findings of the State Board of Workers' Compensation, when supported by any evidence, are conclusive and binding." Ready Mix U.S.A. v. Ross, 314 Ga. App. 775 (2012).

Despite Appellants' contentions to the contrary, the facts in this case are disputed. Specifically, the factual matter of whether the entrance road was owned, maintained, or controlled by the Appellees is a fact that was in dispute. Additionally, the control of the rest of the road, and control of the parking lot shared by the Appellees and another business, were facts that were in dispute.

The Appellate Division of the State Board of Workers' Compensation found, pursuant to their fact-finding authority in O.C.G.A. § 34-9-103(a) and Bankhead Enterprises v. Beavers, 267 Ga. 506 (1997), that Appellees did not own, maintain, or control the entrance road where the accident occurred. As such, the accident did not occur on Appellees' premises, is not compensable, and the Appellate Division's decision should be affirmed.

Notwithstanding the "any evidence" rule, separate and independent legal grounds exist to affirm the Superior Court's holdings below. To wit, the claim should not be compensable because no exception applies to the general rule against the compensability of accidents occurring while traveling to work. The ingress/egress "rule" is a misnomer: it is an exception to the general rule that accidents that occur while an employee is travelling to and from work are not compensable. Therefore, unless the accident in the case at bar qualifies for the exception, it should be deemed not to have occurred in the course of employment. See Connell v. Head, 243 Ga. App. 443 (2002); Collie Concessions v. Bruce, 272 Ga. App. 578, 582 ("It is true that the Workers' Compensation Act should be given a liberal construction 'to effectuate the humane purposes for which [it] was enacted.' But the parking lot exception already liberalized the Act.")

The ingress/egress exception only applies if the accident occurred on the employer's premises. "Premises" is defined as property "owned, controlled, or maintained by the employer." Collie Concessions, Inc. v. Bruce, 272 Ga. App. 578 (2005). Importantly, this standard does not include areas "limited (or

very nearly so) to the respondent business, even if the business's right to the area is merely a leasehold interest or some other non-exclusive access." The Court's expansion of the exception is contrary to longstanding and well-settled case law.

In practice, Knight-Ridder Newspaper Sales, Inc. v. Desselle, 176 Ga. App. 174 (1985), actually stands for the proposition that an employer's premises are limited to property owned, controlled, or maintained by the employer:

Appellee contends that because appellant-employer did not own the lot, but leased it, it was not part of the employer's premises. This lack of ownership is not material. The lot was under the direction and control of the employer, who furnished it for the use of its employees.

Desselle, 176 Ga. App. at 175 (emphasis added).

The Deselle Court held that the parking lot was part of the employer's premises solely because it was under the employer's direction and control, not because it was leased by the employer.

Likewise, any reliance in DeHowitt v. Hartford Fire Insurance Co., 99 Ga. App. 147 (1958)¹, is misplaced in light of

¹ DeHowitt is nearly sixty years old and its precedential value, if any, has been repeatedly chipped away through the years by subsequent decisions.

this Court's decision in Collie Concessions, Inc. v. Bruce, 272 Ga. App. 578 (2005). In Bruce, the superior court specifically cited DeHowitt for the proposition that because the path taken by the claimant was the only means of ingress and egress to and from the place of business, it was part of the employer's premises despite the employer's lack ownership, maintenance, or control. Bruce, 272 Ga. App. at 583. The Bruce Court found reliance on DeHowitt to be in error:

The court's reliance on DeHowitt was undoubtedly based on the fact that Bruce was required to enter Augusta National through Gate 7 on Berckman Road. The court may have reasoned that the temporary crosswalk leading to Gate 7 was analogous to the ingress to the building found to be part of the employer's premises in DeHowitt. To its detriment, the superior court did not have the benefit of our recent decision in [Hill v.] Omni Hotel [at CNN Center, Inc., 268 Ga. App. 144 (2004)].

Id. (emphasis added).

In Hill v. Omni Hotel, 268 Ga. App. 144 (2004), the Court held that a claimant who fell in a food court not owned, maintained, or controlled by the employer did not sustain a compensable injury because the food court was not part of the employer's premises. In making this determination, the Court pointed to the numerous businesses that operated in the food

court and the fact that the food court itself was owned, maintained, and controlled by Turner Properties, a third party. Omni Hotel, 268 Ga. App. at 147.

In the instant case, the entrance road was owned, maintained, and controlled by B&D Services, Inc., who leased the building to the Appellees. As part of this lease, B&D Services granted access, not control, of the entrance road to the Appellee. Analogous to the facts in Omni Hotel, the Appellees shared use of the road with other businesses, and shared use of the parking lot with another business as well. The Appellees had no right to determine who used the road, just as the Employer in Omni Hotel had no right to determine who walked through the food court. Such control rested with B&D Services, Inc. The fact that B&D Services granted access to the Appellees shows that B&D Services itself had control over the road and simply allowed the Appellees (along with the other businesses) to use it.

Because the Appellees did not own, maintain, or control the entrance road, it was not part of the Appellees' premises. Therefore, the ingress/egress exception does not apply and the Appellate Division's denial of benefits should be affirmed.

IV. Conclusion.

It is without question that the Court erroneously interpreted its prior holdings and in so doing expanded the ingress/egress exception without sufficient judicial and precedential support. Under both the "any evidence" standard (which unquestionably applies) and a de novo legal analysis, the Appellate Division's decision should be affirmed. Since whether the entrance road was "owned, maintained, or controlled" by the Appellee is a question of fact, the "any evidence" standard dictates that the Appellate Division's decision should be affirmed. Further, using the standards set forth in Desselle, Omni Hotel, and Collie Concessions, the Appellees did not own, maintain, or control the entrance road where the decedent was killed. As such, the accident did not occur on the Appellees' premises.

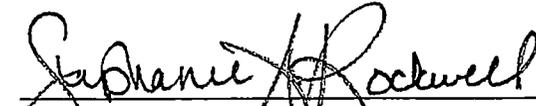
(This area left blank intentionally.)

For these reasons, Appellees respectfully request that the instant Motion for Reconsideration be GRANTED.

* * * * *

Respectfully Submitted,

This the 25th day of November, 2014.

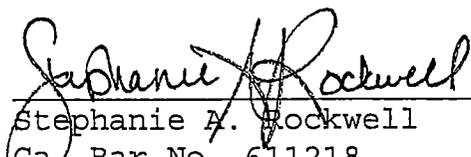

Stephanie A. Rockwell
Ga. Bar No. 611218
Attorney for Appellees

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day placed a true and correct copy of the within and foregoing APPELLEES' MOTION FOR RECONSIDERATION in the U.S. Mail, proper postage prepaid to ensure delivery to counsel for Appellants, addressed as follows:

Stephen M. Welsh, Esq.
BUZZELL, GRAHAM, & WELSH, LLP
P.O. Box 1017
Macon, GA 31201

This the 25th day of November, 2014.



Stephanie A. Rockwell
Ga Bar No. 611218
Attorney for Appellees

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

November 26, 2014

To: Mr. Willie C. Ramey, II, GDC425211 300B, Jenkins Correctional Facility, 3404 Kent Farm Drive,
Millen, Georgia 30442

Docket Number: A15D0134 **Style:** Willie Claude Ramey, II 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. **An improper Certificate of Service accompanied your document(s). Rule 6**
8. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. You must actually serve the District Attorney with a copy of your filings.**
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 GEORGIA COURT OF APPEALS
STATE OF GEORGIA

WILLIE CLAUDE RAMEY II.,
APPLICANT.

VS.

STATE OF GEORGIA.,
RESPONDENTS.

CASE NO. A15D0134

RECEIVED IN OFFICE
2014 NOV 25 PM 2:01
CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

MOTION TO SUPPLEMENT
THE RECORDS

COMES NOW THE APPLICANT HEREIN ABOVE AND
MAKE THIS HIS MOTION TO SUPPLEMENT THE RECORDS THEREIN
THE ABOVE CASE #A15D0134 SHOWN NOW PENDING BEFORE
THIS HONORABLE COURT AND FOR CAUSE OF THIS ACTION
THE APPLICANT SHOWS THE FOLLOWING:

1

INITIALLY ON THE 2ND DAY OF OCTOBER, 2014 THIS
HONORABLE COURT THEREIN A DOCUMENT RETURN NOTICE
INSTRUCTED THE APPLICANT TO FILE A "STAMPED FILED" COPY
OF THE TRIAL COURTS ORDER OF DENIAL OF THE APPLICANT
PRO-SE MOTION TO ENTER A VALID JUDGMENT AND TO
PROVIDE THE DISTRICT ATTORNEY A COPY OF THE FILING
AND INCLUDE THEREIN THE CERTIFICATE OF SERVICE EACH
OPPOSING COUNSEL AND PARTY NAME AND ADDRESS . ,

2

ON THE 7TH DAY OF OCTOBER, 2014 THE APPLICANT
SOUGHT BY LETTER TO THE SUPERIOR COURT OF NEWTON,
COUNTY GEORGIA CLERK MRS. LINDA D. HAYS A STAMPED
FILED COPY OF THE TRIAL COURT ORDER AS REQUESTED
BY THIS COURT, AS THE COURT ORDER SERVED BY THE
NEWTON, COUNTY GA SUPERIOR COURT UPON THE
APPLICANT FAILED TO SHOW THAT IT WAS STAMPED FILED
IN THE COURT AND NO RESPONSE HAS BEEN GIVEN...
(1) of (4)

CONT.

..... ALSO ON THE 7TH DAY OF OCTOBER, 2014 THE APPLICANT FILED HIS NOTICE OF APPEAL THEREIN THE SUPERIOR COURT OF NEWTON, COUNTY GA. WHICH REQUIRED THE COURT TO SEND THE ENTIRE RECORDS OF THIS SUBJECT CASE TO THIS HONORABLE COURT, WHICH SUCH RECORDS WAS TO ENCLUDE A STAMPED FILED COPY OF THE ORDER OF DENIAL.,

3

THE APPLICANT HAVING GAINED NO RESPONSE THEREFROM THE LETTER WRITTEN TO THE COURT CLERK REQUESTING FOR A COPY OF THE STAMPED FILED ORDER OF DENIAL, FILED HEREIN THIS COURT A MOTION FOR EXTENSION OF TIME TO RETRIEVE A STAMPED FILED COPY OF THE TRIAL COURT ORDER OF DENIAL ON THE 15TH DAY OF OCTOBER, 2014.,

4

ON THE 23RD DAY OF OCTOBER, 2014 THIS COURT RETURNED THE APPLICANT MOTION FOR EXTENSION OF TIME INFORMING THE APPLICANT THAT THERE WAS NO CASE PENDING IN THIS COURT.,

5

ON THE 31ST DAY OF OCTOBER, 2014 THE APPLICANT WROTE A LETTER TO THIS COURT CLERK RETURNING THE INITIAL APPLICATION FOR DISCRETIONARY APPEAL THEREWITH EXPLAINING THEREIN THE CONTENTS OF THE LETTER THAT THE ONLY ORDER OF THE COURT RELATIVE TO THE APPLICANT MOTION TO ENTER A VALID JUDGMENT WAS THE ORDER OF DENIAL PROVIDED THE APPLICANT BY THE TRIAL COURT, WHICH DID NOT CONTAIN A STAMPED DATE SHOWN FILED IN THE CONVICTING COURT, CLEARLY SHOWN THEREIN EXHIBIT # (2) ATTACHED WITH THE APPLICATION FOR DISCRETIONARY APPEAL.,

THIS ORDER OF DENIAL SHOWN PROVIDED THE APPLICANT SHOWS, THE COURT WHICH ENTERED THE JUDGMENT, DATE, THE SIGNATURE OF THE JUDGE, A CERTIFICATE OF SERVICE SHOWING THIS ORDER OF DENIAL WAS SERVED UPON THE APPLICANT BY JUDICIAL LAW CLERK OF JUDGE

(2) OF (4)

CONT.

..... JOHN M. OTT ON THE 10TH DAY OF SEPTEMBER 2014
IN WHICH THIS ORDER TOTALLY FAILED TO SHOW A STAMPED FILED
ORDER AS REQUESTED BY THIS COURT ALTHOUGH, IT IS
WHAT WAS PROVIDED TO THE APPLICANT BY THE CONVICTING
COURT WHICH DENIED THE APPLICANT MOTION TO ENTER A VALID JUDGMENT,

6

THE APPLICANT MAINTAINS THAT THIS COURT RULE 31
REQUIRES THE APPLICANT TO ATTACH A COPY OF THE ORDER
OF DENIAL FROM WHICH THE DISCRETIONARY APPEAL IS SOUGHT,
IN WHICH THE APPLICANT DID FOLLOW THIS RULE BY ATTACHING
THE ORDER OF DENIAL RECEIVED THERETO THE APPLICATION
FOR DISCRETIONARY APPEAL SHOWN AS EXHIBIT #(2), WHICH
FAILS TO SHOW A STAMPED DATE FILED IN THE CONVICTING
COURT WHICH IS THE CONVICTING COURT DUTY. .SEE -
O.C.G.A. § 9-11-78.

THIS COURT VIOLATES THE APPLICANT RIGHTS TO DUE
PROCESS OF LAW AND RIGHT TO APPEAL BY COMPELLING THE
APPLICANT TO ENTER A STAMPED FILED COPY OF THE TRIAL
COURT ORDER OF DENIAL WHICH WAS NEVER PROVIDED
THE APPLICANT PRIOR TO FILING THE APPLICATION FOR
DISCRETIONARY APPEAL,

THE ORDER OF DENIAL THAT WAS PROVIDED TO THE
APPLICANT DID NOT CONTAIN OR BARE ANY STAMPED DATE
SHOWN FILED IN THE CONVICTING COURT, AND THE APPLICANT
CLEARLY FOLLOWED THIS COURT RULE 31 WHEN PROVIDING
THE UNSTAMPED FILED COPY SHOWN PROVIDED THE APPLICANT
BY THE TRIAL COURT, AND FOR THIS COURT TO PLACE THE
DUTY OF THE TRIAL COURT OF PROVIDING THE ADVERSED
PARTY WITH A COPY SHOWN STAMPED FILED IN THE COURT,
THIS CLEARLY WOULD SHIFT THE COURT RESPONSIBILITY UPON
THE APPLICANT MAKING THE APPLICANT RESPONSIBLE FOR
PRODUCING THE TRIAL COURT STAMPED FILED COPY OF THE ORDER
OF DENIAL AND WITHIN DOING SO THIS VIOLATES THE
(3) OF (4)

CONT.

.....APPLICANT RIGHT TO DUE PROCESS OF THE LAW'S
AND RIGHT TO APPEAL...SEE - GA. CONST. ART. I, SEC. I, PAR. I. . . . ,
U.S. CONST. AMENDMENT V.;

7

THE APPLICANT MAINTAINS THAT HE AVERS THAT HE HAS
NO AUTHORITY TO COMPEL THE TRIAL COURT TO PROVIDE HIM WITH
A STAMPED FILED COPY OF THE ORDER OF DENIAL FROM
WHICH THIS APPEAL AROSE, ALTHOUGH THE APPLICANT HAS
MADE A BONA FIDE EFFORT IN OBTAINING A STAMPED FILED
COPY OF THE TRIAL COURT ORDER OF DENIAL BY MAKING A
REQUEST TO THE TRIAL COURT CLERK FOR A COPY THEREON
THE 7TH DAY OF OCTOBER, 2014...SEE - LETTER ATTACHED HERETO. ,

8

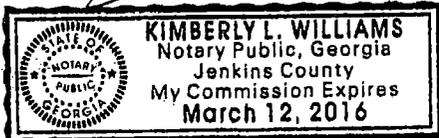
THE APPLICANT MAINTAINS THAT UNDER GEORGIA LAW'S
THE TRIAL COURT IS UNDER A DUTY TO ENTER PROPER CONCLUSION
OF LAW, IN WHICH THE TRIAL COURT ORDER OF DENIAL FAILING
TO SHOW A DATE STAMPED AS FILED IN THE TRIAL COURT, THIS
ORDER PRIOR TO BEING SERVED UPON THE APPLICANT WAS NOT
AN OFFICIAL DOCUMENT SUFFICIENTLY FILED THEREIN THE
TRIAL COURT AND DOES NOT DENY THE APPLICANT MOTION
TO ENTER A VALID JUDGMENT AS IT HAS NOT BEEN FILED IN
THE RECORD OF THE COURT, AND THUS REMAND OF THIS CASE
IS WARRANTED TO THE TRIAL COURT. ,

THIS 18TH DAY OF NOVEMBER 2014

SWORN TO AND SUBSCRIBED BEFORE ME,
THIS 18th DAY OF November 2014

[Handwritten Signature]

/s/ Willie Ramey II
WILLIE C. RAMEY II
GDC # 425211 / 308 (b)
3404 KENT FARM DR.
MILLEN, GA. 30442



MR. WILLIE C. RAMEY II
GDC #425211 (300(b))
JENKINS CORR. CENTER
3404 KENT FARM DR.

MRS. LINDA D. HAYS (CLERK)
NEWTON, COUNTY JUDICIAL CENTER
1132 USHER ST.
COVINGTON, GA. 30014

10/07/2014

RE: A STAMPED "FILED" COPY OF THE COURT ORDER OF
DENIAL ON CASE #95-CR-1402-0, MOTION TO ENTER
A VALID JUDGMENT.

GREETING MRS. HAYS:

ON THE 15TH DAY OF SEPTEMBER, 2014 VIA U.S. MAIL
I RECEIVED A ORDER OF DENIAL THEREON MY MOTION TO ENTER
A VALID JUDGMENT FROM THE HONORABLE JOHN M. OTT, CHIEF
JUDGE, WHICH DO NOT SHOW THAT THIS ORDER WAS OFFICIALLY
STAMPED AS FILED THEREIN THIS COURT BY YOU AS PART OF
THE RECORDS OF THE ACTION ABOVE.,

PLEASE FIND ENCLOSED HERELWITH THIS LETTER,
A BLANK STAMPED ENVELOPE IN ASSISTING
YOU TO RETURN UNTO ME A STAMPED COPY OF THIS
COURT ORDER OF DENIAL SHOWN FILED IN YOUR OFFICE
WHICH IS TO BE INCLUDED THERE WITH MY PRO-SE
APPEAL HEREIN ON THIS SUBJECT MATTER PURSUANT
TO THE COURT OF APPEALS OF GEORGIA RULE (30)(b) AND
RULE (31)(c),,

AS I AWAIT YOUR RESPONSE,

I Am,

Mr. Willie C. Ramey II

c.c.

FAMILY/FRIENDS.

CERTIFICATE OF SERVICE

I hereby certify on this 18TH day of NOVEMBER, 20 14, that I served the foregoing MOTION TO SUPPLEMENT THE RECORDS via U.S. Mail with sufficient postage to ensure delivery to the following:

MR. STEPHEN E. CASTLEN (CLERK)
COURT OF APPEALS OF GEORGIA
47 TRINITY AVE. SUITE 501
ATLANTA, GA. 30334

MRS. LINDA D. HAYS (CLERK)
MR. CHRIS PERNICIARO (CLERK)
303 SOUTH HAMMOND DR.
SUITE 221
MONROE, GA. 30655

Willie C. Ramey II
Willie C. RAMEY II
Pro se Litigant

DOC#425211
JENKINS CORR. CENTER
3404 KENT FARM DR.
MILLEN, GA. 30442

RECEIVED IN OFFICE
OCT 20 PM 3:44
CORRECTIONAL INSTITUTION
COURT OF APPEALS DISTRICT

IN THE COURT OF APPEALS OF GEORGIA
STATE OF GEORGIA

WILLIE CLAUDE RAMEY II.,
APPLICANT.

CASE #: 95-CR-1402-0

Vs.

STATE OF GEORGIA.,
RESPONDENT.

MOTION FOR EXTENSION
OF TIME

RECEIVED IN OFFICE
2014 NOV 25 PM 2:01
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

NOW COMES THE APPLICANT REFERENCED HEREIN IN THE
ABOVE STYLED ACTION AND MAKE THIS HIS REQUEST BEFORE
THE DUE DATE OF THE DISCRETIONARY APPLICATION FOR
APPEAL IS DUE REQUESTING FOR AN EXTENSION OF TIME
TO RETAIN FROM THE TRIAL COURT A STAMPED FILED COPY
OF THE TRIAL COURT ORDER WHICH IS BEING APPEALED, AND
FOR GROUND IN SUPPORT OF THIS MOTION THE APPLICANT
SHOWS THE FOLLOWING:

1

ON THE 22ND DAY OF APRIL, 2014 THE APPLICANT FILED
THEREIN THE SUPERIOR COURT OF NEWTON, COUNTY GEORGIA
HIS PRO-SE MOTION TO ENTER A VALID JUDGMENT,

2

ON THE 10TH DAY OF SEPTEMBER, 2014 THE SUPERIOR
COURT OF NEWTON, COUNTY GEORGIA ENTERED ITS ORDER
DENYING THE PRO-SE MOTION TO ENTER A VALID JUDGMENT,
WHICH WAS RECEIVED BY THE APPLICANT AT THE JENKINS
CORRECTIONAL CENTER THEREON THE 15TH DAY OF SEPTEMBER,
2014 WHICH CAUSED THE APPLICANT TO SEEK
FURTHER REVIEW HEREIN THIS COURT OF APPEALS.,
IN WHICH, THIS ORDER OF DENIAL FAILED TO SHOW STAMPED
DATE FILED IN OPEN COURT.

CONT.

3

ON THE 26TH DAY OF SEPTEMBER, 2014 THE APPLICANT FILED HIS PRO-SE APPLICATION FOR DISCRETIONARY APPEAL HEREIN THIS COURT FOR FURTHER REVIEW OF THE TRIAL COURT ORDER OF DENIAL.,

4

ON THE 2ND DAY OF OCTOBER 2014 THIS COURT RETURNED TO THE APPLICANT THE PRO-SE APPLICATION FOR DISCRETIONARY APPEAL WITH AN INSTRUCTION SHEET FOR THE APPLICANT TO ATTACH A STAMP FILED COPY OF THE TRIAL COURT ORDER OF DENIAL.,

5

THE APPLICANT MAINTAINS THAT A (30) DAYS EXTENSION OF TIME SHOULD BE GRANTED THE APPLICANT TO ALLOW THE APPLICANT TO RETRIEVE A STAMPED FILED COPY OF THE TRIAL COURT ORDER OF DENIAL AS DIRECTED BY THIS COURT.,

6

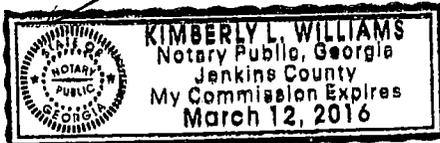
THE APPLICANT MAINTAINS THAT EXHIBIT #(2) SHOWN ATTACHED TO THE APPLICATION FOR DISCRETIONARY APPEAL IS THE COURT ORDER OF DENIAL PROVIDED THE APPLICANT BY THE TRIAL COURT AND THE APPLICANT HAS NO AUTHORITY TO FORCE THE TRIAL COURT TO ENTER A SUFFICIENT ORDER OF DENIAL WITHIN THE (10) DAYS PROVIDED BY THIS COURT WHICH FORM'S THE REASON FOR THIS REQUEST.,

THIS 18TH DAY OF NOVEMBER 2014.

SWORN TO AND SUBSCRIBED BEFORE ME.,

THIS 18TH DAY OF NOVEMBER 2014.

Kimberly L. Williams
NOTARY PUBLIC



Willie C. Ramey II
WILLIE C. RAMEY II
GDC#425211
JENKINS CORR. CENTER
3404 KENT FARM DR.
MILLEN, GA. 30442

MY COMMISSION EXPIRES

C. C.

CERTIFICATE OF SERVICE

I hereby certify on this 18TH day of NOVEMBER, 2014, that I served the foregoing MOTION FOR EXTENSION OF TIME via U.S. Mail with sufficient postage to ensure delivery to the following:

MR. STEPHEN E. CASTEN (CLERK)
COURT OF APPEALS OF GEORGIA
47 TRINITY AVE, SUITE 501
ATLANTA, GA. 30334

Willie e Ramey II
Willie e. RAMEY II
Pro se Litigant

GDC#425211
JENKINS CORR. CENTER
2404 KENT FARM DR.
MILLEN, GA. 30442

C.C.

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

Date: December 2, 2014

To: Mr. Allen Proffitt, Sr., 4354 Logan Way, Acworth, Georgia 30101

Docket Number: A15A0478 **Style:** Allen Proffitt, Sr. v. The City of Atlanta, et al.

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

1. Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal *Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 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 accompanied your document(s). Rule 6**
5. **A Certificate of Service must include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You must also serve the opposing counsel with a copy of all filings.**
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 font is smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).**
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other:

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

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

ALLEN T PROFFITT SR
APPELLANT
V.
THE CITY OF ATLANTA D/B/A
THE CITY OF ATLANTA POLICE
DEPARTMENT
APPELLEE

FULTON SUPERIOR COURT
CASE NO. 2013CV240579

COURT OF APPEALS
CASE NO. A15A0478

Address of Appellant :
4354 Logan Way
Acworth , Georgia 30101

RECEIVED IN OFFICE
2014 DEC -2 AM 8:32
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

BRIEF OF APPELLANT

1 . PART ONE

A . STATEMENT OF PROCEEDINGS BELOW

On January 1 , 2012 , Plaintiff was arrested at the outside of the Havana Club located at 3112 Piedmont Road N.E. , Atlanta , Georgia 30305 . Plaintiff was found not guilty on his disorderly conduct case . but on January 1 , 2012 while being arrested Plaintiff was placed inside ADP patty wagon number 29350 by Defendant Heald and / or Defendant Sumpter assisted in transporting Plaintiff . At no point was the Plaintiff placed in a seatbelt or other restraints to protect him prior to placing the police vehicle in motion , in direct violation of Atlanta Police Department Directive Number 4-16-1 , and as a licensed driver in the state of Georgia , Defendant Sumpter has a duty to operate a motor vehicle with reasonable care and skill , in compliance with all applicable laws and regulations , and with respect for the care and safety of others as set forth in O.C.G.A. 40-6 (2013) . At all relevant times , Plaintiff exercised ordinary care for his own safety , and the Defendant had a duty to exercise ordinary care to ensure Plaintiff safety while in Defendant s custody .

A ministerial duty is defined as “ an established policy requiring officials to take specified action in a specified situation “. Gates V. Glass , 311 GA. App. 563 (2011) quoting Grammer V. Dollar , 287 GA. 618 , 620 (2009) . Municipal corporations shall be liable for neglect to perform or improper or unskillful performance of their ministerial duties .O.C.G.A. 36-33-1 (b) . Due to the Defendants constitutes reckless disregard of Atlanta Police Department directives and negligents use of a police vehicle , the Plaintiff 's injuries occurred as a direct and proximate result of Defendant Atlanta (through its agents and employees) , Defendant Sumpter and / or Defendant Heald 's negligent acts and / or omissions .

Plaintiff did not cause or contribute to the incident and was not negligent in any manner . Defendant Sumpter was negligent in failing to maintain a proper lookout , stopping APD patty wagon 29350 abruptly , and failing to restrain the Plaintiff at all during transport in APD vehicle 29350 , but the Plaintiff 's hands were cuffed at all times , leaving the Plaintiff helpless to defend or protect himself .

On January 1 , 2012 after the Plaintiff horrible incident in APD vehicle the Plaintiff was not taking to Grady right away . The Defendant made another stop to pick up more

people , then the Plaintiff arrived at Grady Hospital . At Grady Hospital the Plaintiff was giving a X-Ray and a CAT-Scan , but never given a MRI .

B . STATEMENT OF THE FACTS

On January 1 20`2 the evidence and pleadings of record reflect that the Plaintiff arrested and following his arrest , Plaintiff was placed in APD patty wagon with no restraints / seatbelts , while traveling at a high rate of speed made a abrupt stop which caused the Plaintiff severe neck and back and shoulder injuries . On January 19 2012 Plaintiff filed a " Citizen Statement " with the APD 's Office of Professional Standards investgated and instituted disciplinary action against the Defendant . Atlanta Police Department Direc tive Number 4-16-1 and O.C.G.A. 40-6(2013) . when injury resulting from tortious act is not immediately apparent , statute of limitation is tolled so long as victim could not in exercise of ordinary care have learned of it . Piedmont Pharmacy Inc. V. Patmore , 144 GA. App. 160,240 S.E. 2d 888 (1977) ; Simons V. Conn , 151 GA. App. 525 , 260 S.E. 2d 402 (1979) .

More importantly , Defendants own answer Admits that Plaintiff had " complied with all conditions precedents to bringing this claim including providing notice of the claim pursuant to O.C.G.A. 36-33-5 " . By their own admission , Defendants have already conceded that the Plaintiff complied with all provisions of the ante litem statute , rendering the present motion moot . It's sufficient to state that the amount of loss was yet to be determinnd because the statute required him to state the amount of the extent of the Plaintiff's knowledge . The Plaintiff couldn't possibly know his past and future lost wages , pain and suffering and other damages within the frame of the O.C.G.A. 50-21-26 (A) (1) .

C . PRESERVATION OF ERRORS

As a proximate and foreseeable result of Defendants negligence and / or carelessness , Plaintiff sustained bodily injuries and suffered physical and mental pain and in all reasonable probability will continue to suffer in this manner in the future . As a proximate and foreseeable result of Defendants negligence and / or carelessness , Plaintiff sustained serious and painful injuries to his person , including but not limited to , a one inch laceration on the head , severe neck and back pain , and left shoulder pain and pain in legs . Plaintiff back and neck injuries required surgery . As a result of the Plaintiff injuries and having surgery , the Plaintiff has reasonably incurred medical expenses in an amount which exceeds \$ 50,000.00 and which will be further specified at a later date .

2 . PART TWO

1 . O.C.G.A. 50-21-26 (A) (1) : It is sufficient to state that the amount of loss was yet to be determinded because the statute required him to state the amount of the extent of the Plaintiff 's knowledge .

2. Statute O.C.G.A. 36-33-5, the ante litem notice is a Statute of Limitations that can be tolled. Plaintiff found out his injuries would require surgery on October 8 2012 by Neurologist when a M.R.I was done .

CONCLUSION

The Trial Court erred on statute O.C.G.A. 36-33-5, Defendants own answer Admits Plaintiff had " complied with all conditions precedents to bringing claim providing notice of the claim . Plaintiff O.C.G.A. should start October 8 2012 , when Plaintiff found out his true injuries and damage done to his back and neck by the Neurologist . after 8 months of therapy with no success .

Respectfully Submitted
Allen Proffitt Sr.

Allen Proffitt
4354 Logan Way
Acworth, GA. 30101
770-837-1648

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

December 2, 2014

To: Mr. Michael Redford, Unit 3-C-3, Douglas County Jail, 8472 Earl D. Lee Boulevard, Douglasville, Georgia 30134

Docket Number: **Style:** **Mike Redford 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) It must actually be signed by a lower court judge.**
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. Rule 6**
8. **The Certificate of Service must 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 GEORGIA COURT OF APPEALS
STATE OF GEORGIA
RECEIVED IN OFFICE

MIKE REEFORD

APPELLANT

V.

STATE OF GEORGIA

APPELLEE

2014 DEC -1 PM 3:50

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS

APPEAL CASE NO.

DOUGLAS COUNTY CASE NO. 14 CR 243

APPLICATION FOR APPELLATE REVIEW

MIKE REEFORD, APPLICANT, APPLIES TO THIS COURT AS FOLLOWS:

- 1) TO ISSUE AN ORDER GRANTING THE APPLICANT AN APPEAL FROM THE ORDER OF THE SUPERIOR COURT OF DOUGLAS COUNTY, HONORABLE ROBERT J. JAMES, PRESIDING, IN THE CASE STYLED MIKE REEFORD, APPELLANT V. STATE OF GEORGIA, APPELLEE, CASE NO. 14 CR 243, THIS ORDER FOR DISQUALIFICATION AND/OR RECUSA OF JUDGE ROBERT J. JAMES HAVING HELD: THAT THE AFFIDAVIT LACKS LEGAL SUFFICIENCY.
- 2) THIS APPLICANT SHOWS THAT THE JURISDICTION IS PROPERLY IN THIS COURT BECAUSE GEORGIA COURT OF APPEALS HAS JURISDICTION IN PURSUANT TO O.C.G.A. 5-6-34(b) FOR INTERLOCUTORY REVIEW OF AN ORDER THAT IS OF SUCH IMPORTANCE TO THE CASE THAT IMMEDIATE REVIEW SHOULD BE HAD.
- 3) THIS APPLICATION OF APPEAL IS FILED WITHIN 10 DAYS OF THE GRANTING AND FILING OF THE CERTIFICATE OF IMMEDIATE REVIEW.
- 4) COPIES OF ALL PERTINENT DOCUMENTS HAVE BEEN ATTACHED TO THIS APPLICATION AS EXHIBITS "A" AND "B".
- 5) THE NEED FOR INTERLOCUTORY APPELLATE REVIEW IS FEDERAL CONSTITUTION REQUIRES THAT CRIMINAL DEFENDANT BE AFFORDED A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE. U.S. C.A. CONST. AMEND. 6; STATE V. PERKINS 271 CONN. 218, 856 A.2d 917 (2004). DUE PROCESS VIOLATION, ESTES V. TEXAS, 381 U.S. 532 (1965). A BIASED TRIBUNAL ALWAYS DEPRIVES THE ACCUSED OF A SUBSTANTIAL RIGHT. U.S. C.A. CONST. AMEND. 14; BARNEY V. CONWAY, 730 F. SUPP. 2d 264 (N.D. N.Y. 2010). THE GUARANTEE OF A FAIR TRIAL IS NOT A BACKSTOP THAT INOCULATES ANY ERRORS IN THE PRETRIAL PROCESS. MISSOURI V. FRYE, 132 S. Ct. 1399 (2012).
- 6) APPLICANT SUBMITS THAT AN APPEAL SHOULD BE GRANTED BECAUSE EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE AND FUNDAMENTAL RIGHT TO A CRIMINAL DEFENDANT'S RIGHT TO A FAIR TRIAL IS PARAMOUNT. U.S. V. NIX, 976 F. SUPP. 417 (S.D. MISS. 1997). A CRIMINAL DEFENDANT POSSES THE CONSTITUTIONAL RIGHT TO A FAIR OPPORTUNITY TO DEFEND AGAINST A STATE'S ACCUSATION 21 A AM. JUR. 2d (CRIMINAL LAW) 7926.

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DECLINE THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE PERMITTED TO STAND, SUCH WOULD BE A MISCARRIAGE OF JUSTICE BECAUSE A DENIAL OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW 21A AM. JUR. 2d CRIMINAL LAW 9926. MOREOVER, WHERE A DEFENDANT HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED.

PEOPLE V. ELLIOT, 54 CAL. 2d 498, 6 CAL. RPTR. 753, 354 P. 2d 225 (1960). DENIAL OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARRIAGE OF JUSTICE WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED.

PEOPLE V. SHERROD, 59 CAL. APP. 4TH 1168, 69 CAL. RPTR. 2d 361 (4TH DIST. 1997).

WHEREFORE, APPELLANT PRAYS TO THIS COURT OF FINAL RESORT AND EQUITY TO GRANT HIS APPLICATION.

RESPECTFULLY SUBMITTED
MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED A TRUE COPY OF THIS APPLICATION TO JUDGE ROBERT T. JAMES, 8700 HOSPITAL DR. DOUGLASVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL.

MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

IN THE COURT OF APPEALS
STATE OF GEORGIA

MIKE REAFORD
v.
APPELLANT

STATE OF GEORGIA
APPELLEE

Appel case no.
Doughas county case no. 14CR243

Application for Appellate Review

Make Reford, Appellant, applies to this court as follows:

- 1) To issue an order granting the applicant an appeal from the order of the superior court of Douglas County, Herberste Robert J. Jarne, presiding, in the case styled Mike Reaford, Appellant v. State of Georgia, Appellee, case no. 14CR243, this order for disqualification and/or reversal of Justice Robert J. Jarne's finding held: that the appellant lacks legal sufficient.
- 2) This applicant states that the jurisdiction is properly in this court because Georgia Court of Appeals has jurisdiction in pursuant to O.C.G. 5-6-34(b) for interlocutory review of an order that is of such importance to the case that immediate review should be had.
- 3) This application of appeal is filed within 30 days of the granting and filing of the certificate of immediate review.
- 4) Copies of all pertinent documents have been attached to this application as exhibits "A" and "B".
- 5) The need for interlocutory appellate review is separate constitution requires that criminal defendant be afforded a meaningful opportunity to present a complete defense. 71 S.C.A. CONST. APPENDIX 6; STATE V. PERKINS, 271 GA. 218, 856 A.2d 917 (2004). PALE PROCESS VIOLATION SEE ESTES V. TEXAS, 381 U.S. 532 (1965). A BASED TRIAL COURT ALWAYS DEPRIVES THE ACCUSED OF A SUBSTANTIAL RIGHT. 71 S.C.A. CONST. AMEND. 14, BARNEY V. COUNTY, 730 F. SUPP. 924 (N.D. N.Y. 2010). THE GUARANTEE OF A FAIR TRIAL IS NOT A BACKSTOP THAT INOCULATES ANY ERRORS IN THE TRIAL PROCESS. MISSOURI V. FLYE, 132 S. CT. 1379 (2012).
- 6) APPLICANT SUBMITS THAT AN APPEAL SHOULD BE GRANTED BECAUSE EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE AND FUNDAMENTAL RIGHT TO A FAIR AND IMPARTIAL TRIAL. HERBERT V. FLYNN, 475 U.S. 560 (1986). A CRIMINAL DEFENDANT'S RIGHT TO A FAIR TRIAL IS PARAMOUNT 71 S. V. MI. 976 F. SUPP. 417 (S.D. MISS. 1997). A CRIMINAL DEFENDANT POSSES THE CONSTITUTIONAL RIGHT TO A FAIR OPPORTUNITY TO RETEND AGAINST A STATES ACCUSATIONS. 214 AM. JUR. 2d CRIMINAL LAW 7926

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DECLINE THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE PERMITTED TO STAND, SUCH WOULD BE A MISCARRIAGE OF JUSTICE BECAUSE A DENIAL OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW 21A AM. JUR. 2D CRIMINAL LAW 7926. MOREOVER, WHERE A DEFENDANT HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED.

PEOPLE V. ELLIOT, 54 CAL. 2D 498, 6 CAL. RPT. 753, 354 P.2D 225 (1960). DENIAL OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARRIAGE OF JUSTICE, WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED.

PEOPLE V. SHERROD, 59 CAL. APP. 4TH 1168, 69 CAL. RPT. 2D 361 (4TH DIST. 1999)

WHEREFORE, APPELLANT PRAYS TO THIS COURT OF FINAL RESORT AND EQUITY TO GRANT HIS APPLICATION.

RESPECTFULLY SUBMITTED
MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED A TRUE COPY OF THIS APPLICATION TO JUDGE ROBERT J. JAMES, 8700 HOSPITAL DR. DUBLASVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL.

MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

IN THE SUPERIOR COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

FILED

NOV 19 2014

INVOLVEMENT NO. 14CR043

MIKE REEFORD

DEFENDANT

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

CERTIFICATE OF IMMEDIATE REVIEW

THIS IS AN APPLICATION FOR CERTIFICATE OF IMMEDIATE REVIEW BY DEFENDANT MIKE REEFORD ON THE GROUNDS OF HONORABLE ROBERT J. JAMES, DOUGLAS COUNTY SUPERIOR COURT ORDER ISSUED OCTOBER 29, 2014 IN ALL MATTERS ARISING FROM THE RETRIAL HEARING ON AUGUST 27, 2014 AND OCTOBER 22, 2014. DEFENDANT SEEKS INTERIM REVIEW OF THE STATE'S HIGHER COURTS. JURISDICTION IS BOTH IN THE GEORGIA COURT OF APPEALS AND SUPREME COURT OF GEORGIA TO REVIEW RESPECTIVELY NONCONSTITUTIONAL AND CONSTITUTIONAL CHALLENGES. IT IS SO ORDERED AND ADJUDICATED THAT THE SAID ORDER BE ISSUED.

HONORABLE ROBERT J. JAMES
DOUGLAS COUNTY SUPERIOR COURT

THIS DAY OF 1 2014

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

Date: December 2, 2014

To: Mr. Edward Tyrone Ridley, GDC570139 14-107-B, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

Docket Number: A14A1879 **Style:** Edward Ridley 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 party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: **You cannot file an amended Brief without permission from the Court.**

Don't have
clear way to
staple here

IN THE COURT OF APPEALS, STATE OF GEORGIA

EDWARD TYRONE RIDLEY

Appellant,

CASE NO. From denial of Emergency Permanent Injunction,
O.C.G.A. 17-9-4, Rule 33.10 denied October 31st 2014.
CAN be consolidated with A14A1879 if necessary
by Court.

v.

STATE OF GEORGIA

Appellee,

BRIEF / CAN use this and
Amended Brief filed in case A14A1879

RECEIVED IN OFFICE
2014 DEC -1 AM 11:18
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS
GA

Mr. Edward Tyrone Ridley 570139
Mr. Edward Tyrone Ridley, 570139
Johnson State Prison
P.O. Box 344
Wrightsville, Ga. 31096

ENUMERATION OF ERRORS

- (1) Court erred when failed to properly allow state to answer motion as required by law;
- (2) Court erred when denied motions in case no. 13R-149 without just construing as criminal if true to allow respondent to answer since judge assumed that was for criminal case and denied as was filed with criminal case no when denied that triggered ruling for criminal case no. 13R-149; without allowing state to answer facts in motions;
- (3) Done with vindictive malice by ineffective assistance of counsel when he corruptly allowed state and court to convict Ridley under 42-1-12 (9)(A) and place there when person was a adult in Florida on his arrest Dec. 12, 1995 not minor as 42-1-12 (9)(A) required;
- (4) with vindictive malice by ineffective counsel failed to force state to abide by Ridley 7/29/96 FLA Contract where he received time served from 12/12/95 through 7/29/96 made his conviction on 12/12/95 not 7/29/96 where he was only required to give DNA to FDLE not 42-1-12 or FS. 943, 0435 then or in future;

End

5.

done with vindictive motive when counsel knew

Ridley never went before any Florida judge

to be classified and knew both state judge

attorney that he never heard of the sanction

on Oct 1, 1997 with Ridley contacted the attorney

with response back on July 25, 2014, Ridley

was not in 2003 on parole, probation before

parole Ridley, illegally on Fla. S.O. on ^{out} due

process as a V.C. S.R., C.M., and C.S.O., the

date have not had hearing in Crisp Co. Ga. they

like (C) to be an illegally forced there 2013,

(6) ended with vindictive motive when counsel failed to

uniform Ridley of Sonoma that took place at

O.C.G.A. 42-1-12 and 42-1-5 9/3/0435, 2-7-249, that put

in place by Congress in 2006 a National S.O.

(7) did away with the state-by-state, S.O. R. put

in place 42 USCS 16901

(7) ended with vindictive motive when sentenced Ridley

to 30 yrs punishment with 3 yrs to serve with 1 legal

lacks to make parole at 1/3 part sentence most

Nov. 15, 2014 to Nov. 30, 2015 violation of Stevens

Court, when under 16901 Ridley couldn't receive

only up to 10 yrs in prison not 30 yrs, punishment

was done completely by Crisp Co. ~~County~~

(8) ended with vindictive malice when attorney allowed him to be barred from Cosp Co. Judicial Circuit when the person has no ties to Cosp Co. (Sudicem) Circuit, Ridley was not in any State Parole, Probation etc. in Georgia at conviction, was illegally convicted in or around 2006 for violation 92-1-12 moving by church, illegal felon probation when warning was in place and law was changed by Congress (I.S.)

(10) ended with vindictive malice when Court failed to issue injunction when F.S. 943.0433 was not a law was not pronounced in Ridley sentence, Court should have enforced Ridley the contract or allowed him to withdraw his Fla. Contract on 7/29/96 as required by law (11) ended with vindictive malice when Court ruled under 17-9-4 without hearing and counsel; (12) ended with vindictive malice because Pleas a Contract; (13) ended with vindictive malice Court ruled without hearing on Extradition before his conviction and placed in custody by Cosp Co. Sheriff Agent 3 Ark Masters without Ridley going before a Judge for extradition or a Governor warrants from Georgia or Ala. to be placed in his custody that constituted kidnapping false imprisonment

CENTRAL AUTHORITY

US Congress did away with the state-by-state registers to enact SORNA as part of the Adam Walsh Protection Act of 2006, Pub. L. No. 109-248, 120 Stat. 587 (44 F.3d 852) at 42 U.S.C. 16901 et seq. "in response to the vicious attacks by violent predators" 42 U.S.C. 16901, its NATIONAL SYSTEM for those offenders. (regional) reg- istration for the most dangerous category of SO. see 42 U.S.C. 16916(b). United States v. Jones, 562 F.3d 1302, 1314 (11th Cir. 2009). The high recidivism rates of those who commit S.O. against children, see US v. Zey (012 F.3d 1166, 1219-15 (11th Cir. 2010) (en banc) Congress eliminated the state-by-state registers ~~Attorney General's Report~~ see Deegan v. Board where state-by-state had left gaps in the system, resulting in estimated 10,000 unaccounted S.O., S. Rep. No. 109-369, at 16 (2006) with SORNA Congress sought to fill those gaps.

Failure to register as required by THE ACTS Punishable by up to 10 Years Imprisonal NOT 36 mos Ridley was illegally under 42+12. That in 2006 was replaced by 42 USCS 16901 et seq.

Ridley never went in Florida to original Court to be an illegally place on First Florida S.O. registry without a fair warning. Due Process Hearing was not on any type parole/probation in 2003 attempted

to challenge in Bay Co. Fla. Clerk refused said was
barred 1/30/98, in Crisp Co. Ga. refused to answer
asked Tom Edison before 13R-149 and demery
refused. Others in Cordele Public Defenders Office
Cordele, Bay Co, refused, Filed motions in Federal
Courts in Fla. N. Dist. Ga. Middle Dist., Ala. M. Dist
was not in Custody.

The Florida & Ga. prosecutor must seek judicial
approval of notification without prior notice to its
dissemination (2d. 931 F. Supp. 1220), *Mathews v. Eldridge*
424 U.S. 319, 334 (1976). There must be sufficient notice
and a meaningful opportunity to be heard. *US v. Raffoul*,
826 F.2d 218, 222 (3d Cir. 1987); *Kabul v. US*, 753 F.2d
1208, 1218 (3d Cir. 1985), 931 F. Supp. 1207, *Altway*, 81 F
3d at 1250 n. 9; *Weaver v. Graham*, 460 U.S. 24, 101 S. Ct.
966 (1982). The Ex Post Facto Clause not only ensures
that individuals have "fair warning" about the effect
of criminal statutes but also "restricts governmental
power by restraining arbitrary and potentially
vindictive legislation." 2d at 28-29, 101 S. Ct. 1483
(1999). Ridley only heard of Fla. Oct. 1, 1997 Sanction
on 7/25/97 when wrote Fla. Lawyer well after his
1/18/83 illegal sentence almost 2 decades 20 yrs
after his release from Fla. Prison on 12/11/98.

STATUTE OF HUMANITY
SOPNA
From US v. Carter

Congress enacted 18 USC 2204A US v. Nelson (2009, CA11A4)

209 US App LEXIS 12868; US v. Wellman (2011, CA4WA)

663 F.3d 224; US v. Carter (2011 call file) 2011 US LEXIS

17131; USCS 16917(a) SOPNA requires not shortly before

release from custody or immediately after sentencing.

Optional exemptions (1) any information about a tier I

5.6 convicted of an offense other than specified offenses

against a minor need fair warning US v. Weyers, 624

F.3d 1342, 1347 (11th Cir. 2010) quoting Hill v. Colorado, 530 US 703,

732 (2000); US v. Carter, 422 Fed Appx 803, 796 appx 6201; when

Congress enacted 2204A 422 Fed Appx 803, F.S. 943.0435 defines

for a violation of only 800.04, to qualify as a S.O. under F.S.

943.0435 a person is only required, in relevant part, to have

been convicted previously under F.S. 800.04 see Fla. Stat. 943,

043 (1) (A). Thus because Carter stipulated to his previous

800.04 conviction the government sufficiently proved this prong.

Have to live in Florida to qualify for 943.0435 to apply. US

^{Hearst} v. ~~Hearst~~, 926 F.3d 875, 877 (11th Cir. 1991); US v. Sverre

566 F.3d 1157, 1161 (11th Cir. 2009) (en banc 130 S.Ct. 1887, 115

v. Prather, 205 F.3d 1265, 1270 (11th Cir. 2001) quoting US v. Briggs

984 F.2d 1139, 1143 (11th Cir. 1993) see United States District

Court for the Southern District of Florida DC Docket No. 2108

-CV-14663-SEM-1; US v. Carter 385 Fed Appx 449, 209 US

App LEXIS 21725 (11th Cir. file 2009) 42 USC 19071, Souter for

1057-3d 610, 612 (11th Cir. 1997).

Kirby v. Siegelman 195 F.3d 1285, 1292 (11th Cir. 1995)

Ridley was entitled to due process before the State declared (convicted) Ridley to be a S.O." The stigmatizing effect of being classified as a S.O. constitutes a deprivation of liberty under Due Process Clause.

282 Ga. 74, Taylor 304 Ga. App. 878 (2010)

Extradition, Pardonance in sentence, withdraw of Plea, Enforce Fla Plea anything else filed Arguments in unanswered or answered motions in both Lower and Appellate Court already within records.

CONCLUSION / Rel. et,

Ridley have show clear State / Federal Law why case must be Dismissed
Enforce Ridley Fla Contract on 7/29/96
Withdraw Ridley Contract for Hearings
IN Fla. Courts as required by Law,
Emergency Immediate Release From State
Custody, Remove of 42-1-12, 1690, 943.0435,
Pecoziance Build Fla was out bond in Ga was
NOT a fugitive from Justice. Any other relief
Court Deem Necessary, This 22nd day of
November 2014

Respectfully Submitted

Mr. Edward Dwayne Ridley 570139

Mr. Edward Dwayne Ridley 570139, Johnson
State Prison, P.O. Box 344, Wrightsville, GA 31096

CERTIFICATE OF SERVICE

I here by certify that I have this day served the Respondent(s) with a copy of the forgoing, by placing the same in the United States mail in a proper envelope with adequate postage attached, properly addressed to:

Denise Feachini, District A Honory
Crisp County Courthouse
510 N. 24th St., P.O. Box 5510
Cordele, Ga. 32015

This 23rd Day of November, 2014.

Shirley Ann Ridley 520139
Petitioner Pro Se

Petitioner's address:

Johnson State Prison
P.O. Box 344
Wrightsville, Ga 31096
44-107-B

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 2, 2014

To: Mr. Daniel W. Taylor, GDC1000332837 H-2, Johnson State Prison, PO Box 344,
Wrightsville, Georgia 31096

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

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).

Patricia Glover
JOHNSON COUNTY SUPERIOR COURT
PO. BOX 321
WRIGHTSVILLE, GA. 31096

COURT OF APPEALS
OF GEORGIA
SUITE 501
47 TRINITY AVE
ATLANTA, GA. 30334

This the 26 day of November 2014
Signature Daniel W. [Signature]

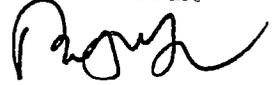
IN THE SUPERIOR COURT OF JOHNSON COUNTY
STATE OF GEORGIA

DANIEL W. TAYLOR,
Plaintiff,
1000332837,
Inmate Number,

Civil Action No. _____

VS.
Brian Owens, Commissioner, Dept. of
Corrections,
Brad Hooks, Warden,
Ct. Cherie Price,
CO2 Fort,
Dr. McKinney PHD, and
Dr. Ajibade, et. al.,
Defendants.

FILED IN OFFICE
Johnson County, GA
Date 10-24-2014
Patricia Glover, Clerk
Superior Court



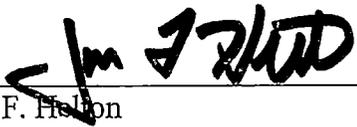
**ORDER INSTRUCTING THE CLERK OF COURT
NOT TO FILE PLAINTIFF'S CIVIL ACTION**

Plaintiff has two grievances pending at Johnson State Prison relating to the subject matter of his civil action.

This civil action is therefore premature and is not to be filed.

The Clerk of Court is instructed not to file Plaintiff's civil action.

This 21st day of October, 2014.



Jon F. Heston
Judge, Superior Courts
Dublin Judicial Circuit

Clerk to serve:
Plaintiff

IN THE SUPERIOR COURT OF JOHNSON COUNTY
STATE OF GEORGIA

CIVIL ACTION NO.

NATURE OF ACTION

FAILURE TO PROVIDE
URGENT MEDICAL CARE
FOR A SERIOUS MEDICAL
INJURY DELIBERATE IN-
DIFFERENCE.

DANIEL W. TAYLOR
PLAINTIFF
VS.

BRIAN OWENS
COMMISSIONER DEPT OF CORR.
BRAD HOOKS, WARDEN
CT. CHEFET PRICE
CO-2 FORT
DR. MCKINNEY PHD AND
DR. ATIBADE ET. AL

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT DANIEL
W. TAYLOR PLAINTIFF, IN THE ABOVE ENTITLED
MATTER APPEALS TO THE GEORGIA COURT OF
APPEALS FROM A FINAL JUDGEMENT IN THE
ABOVE ACTION ENTERED THE 21ST DAY OF
OCTOBER 2014. PLAINTIFF ASSERTS THIS
IS A TIMELY FILED NOTICE OF APPEAL
FOR THE ORDER WAS NOT RECEIVED UNTIL
NOVEMBER 24, 2014 BY UNITED STATES
POSTAGE IN THE JOHNSON STATE PRISON
MAIL ROOM.

DANIEL W. TAYLOR 100332837
JOHNSON STATE PRISON H-2
PO. BOX 344
WIRIBHTVILLE, GA. 31096

Daniel W. Taylor

RESPECTFULLY SUBMITTED

THIS 26th DAY OF November 2014

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 3, 2014

To: Mr. William T. Murray, GDC469640, Georgia Diagnostic and Classification Center,
State Prison, Post Office Box 3877, Jackson, Georgia 30233

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

Court of Appeals Case Number and Style: _____

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

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

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

LOOK AT IT THIS WAY
I KNOW IF THIS WOULD HAVE HAPPENED TO YOU
YOU WOULD HANDLE IT OR DO SOMETHING ABOUT IT, I JUST DON'T
KNOW HOW, SO I AM ASKING YOU TO DO THE SAME FOR ME, SINCE
YOU KNOW WHAT TO DO.

DEAR: COURTS

11-25-14

RE-CASE -10-224 BARTOW CO. SUPERIOR COURT.

I AM IN THE PROCESS OF TRYING TO
APPEAL A CASE AND HAVE BEEN UNABLE TO APPEAL
MY CASES OR RESEARCH THEM. BECAUSE THEY KEEP
SAYING AND MAKING EXCUSES TO NOT LET US GO
TO THE LAW LIBRARY AND REALLY MEDICAL IN
WHICH I AM DEEPLY ILL AND THERE BASICALLY
DENYING ME MEDICAL ASSISTANCE. I'VE BEEN
TRYING TO WRITE PEOPLE BUT I AM NOT EVEN
SURE THEY RECEIVE MY LETTERS. BECAUSE I HAVE
A CONTAGIOUS DISEASE WHICH IS UNSAFE TO THE
PRISONERS AND PRISON STAFF. MEDICAL HAS
BEEN TRYING TO GET ME TO MEDICAL FOR SOME TIME
NOW. I WAS HOPEING AND PRAYING YOU COULD DO
SOMETHING. I HAD A CASE IN YOUR COURTS
CASE# A12A0220 WHICH YOU FOUND IN MY FAVOR
MOSTLY. ANYWAY THEY TRIED AND DID EMBARRASS
ME AND MY FAMILY AND KIDS. FOR NO REASON
THAN I DID NOT AGREE WITH WHAT THEY ALLEGED
AT TRIAL. I AM MEAN THESE PEOPLE ARE IMPOSED
TO BEST OF ANYTHING ELSE AND THEY USUALLY ARE
WITHE BALL OF THINGS. BUT IT'S LIKE I DID SOMETHING
TO THEM WRONGFULLY. ANYWAY I AM SENDING THIS
LETTER IN HOPES AT SIN YOU'LL HAVE TO RE CAREFUL
THOUGH. I ALSO HAVE FILED A NOTICE OF APPEAL IN MY TRIAL
COURT AND HAVE A PENDING ^{DISCRETIONARY} APPEAL# A15A0131
THANKS FOR ANYTHING

P.S. I WAS HOPEING YOU COULD GAIN THESE PEOPLE SO I CAN
LEARN SOME OF WHAT THEY DO.

I am not asking you to do anything in Favor
or concerning my case's. You REVERSED my
VERDICT in The COURT of APPEALS CASE# A12A0270
in which released me From Prison BUT NOW
they PUT it BACK on the Prison record
Computation sheet as though it was not
"REVERSED" you also ordered or Found the
TRIAL COURT in ERROR For NOT GRANTING A NEW
TRIAL which the TRIAL COURT FAILED to DO.
CASE# 07-2087. I am requesting if there is
anything you can do concerning in that matter
since you have ruled priorly on it. GET me
A NEW TRIAL in that case. They seem to JUST
DISREGARD it here AND there, AND I am trying
to learn the law. AND AS MUCH AS I CAN I
DOUBT I'll ever make Judge, or lawyer or clerk
OR anything BUT I still try to learn AND UNDER
STAND it. AS MUCH AS POSSIBLE. For some reason
these people won't let people go to or receive
medical care simply ~~because~~ or go to Law LIBRARY
For research because they say we are on lock DN.
Because someone said something uncolored For etc.
etc. etc. anyway, I'll say before this my home
BURNED DOWN DESTROYING everything I own KIDS
PROPERTY, Belongings everything, including my FUTURE
AND my KIDS were DESTROYED. THAT I had planned
For them. I KNOW NOBODY CASE'S BUT still it's
NOT JUST ABOUT me. AND most of this was

nothing more than a way to embarrass me
and the kids and friends and stuff I know
I am not the best in the world and neither
are they sometimes. Really this stuff should
have never went to court, and there's more
I have a case now that's even worse case # 14-02
(14-0755) Kestow Co Superior Court, most of you
people are like Gops at this stuff, I am waiting
on an motion for new trial to be heard in this
case of 14-0755 it's been pending for sometime
now. Really I don't think the attorney's are
interested in a new trial even though I am.
I was hoping someone would call the public
defender's office because they don't write back
at all. They said they were waiting on a
transcript from the trial but that was months
ago and I requested a "direct appeal" not a
motion for new trial in that case # 14-0755. Any
way was hoping to get a little justice myself
for me the kids and others if not for me for the
ones that matter, I am also requesting more
time to file ~~because~~ if you return a favorable verdict
to my discretion App, because ~~William T. Muley~~
they can't seem to get anything in order. ~~William T. Muley~~
P.S, if nothing else can you at least get these
people up here to do the required or medical, law,
research and legal mail etc. and it would be nice
if you would tell these people down here others tell

me what to do and ask and etc. and I am
kinda stupid when it comes to that stuff so
unless it's a request they should remember some-
body probably told me wrong. or was playing a
trick on the staff or other inmates as to
trick me also as a joke.

Tim Kimbitt
my attorney Boss Phone # is Chris Paul
628-721-3254
The Superior Court in
Bartow Co. Judge Nelson is

I hope you don't take this wrongfully
BUT I am hoping you can work your magic
against "I've already been in here so long"
and been away from the kids. I am trying to
GET moved back to Bartow Co. Jail. ect. ect.
So say you people aren't worth fooling with
BUT I still believe somebody will do something.

They've been punishing us over here for
stuff others have been doing not that I don't
mess-up myself. I think those people don't know
anything about the legal process neither do I BUT
they don't seem to care you people have real lives
ect. ect. I know you all know better than I
BUT I am trying to lessen. ect. I really feel
like we didn't get a fair trial, it's all impulsive
in this case here alot of fines there doing this
stuff, alot of fines there not. and there trying to make



Court of Appeals of Georgia

December 3, 2014

TO: Mr. Michael Redford, Unit 3C3, Douglas County Jail, 8472 Earl D. Lee Boulevard,
Douglasville, Georgia 30134

RE: **A15D0156. Mike Redford v. The State**

REQUEST FOR COPIES

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

Total pages: 11 Total Costs: \$16.50

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

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

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

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

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing. This Court cannot appoint counsel for you.

RECEIVED IN OFFICE

2014 DEC -2 PM 3:09

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

MIKE REDFORD

UNIT 3C3

DOUGLAS COUNTY JAIL
8472 EARL D. LEE BLVD
DOUGLASVILLE, GA. 30134
11/25/14

RE: APPLICATION NO. A1520156, MIKE REDFORD V. THE STATE

CLERK'S OFFICE

COURT OF APPEALS OF GEORGIA
47 TRINITY AVE. S.W. SUITE 501
ATLANTA, GA. 30334

Dear clerk

I want the copies of the application written
at the back "Stamp and mail back to me, so
that I can serve the state".

yours sincerely
Mike Redford, Jr

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 4, 2014

To: Mr. Maurice Orr, Jr., GDC209285, Bulloch County Jail, 1729 U.S. Highway 301 South, Statesboro, Georgia 30458

Case Number: _____ Lower Court: County Superior Court

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name. Since there is no case in your name, this Court has nothing to append your change of address, as well as, your other documents. Therefore, we are returning all of your documents to you.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____
_____ The remittitur issued on _____
divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.



GA 310
01 DEC '14
PM 11

1155

GEORGIA

APPEALS OF

COURT OF

THE STATE OF GEORGIA

GRAD SMITH
EX. TEL.

DISTRICT ATTORNEY

JUDICIAL CIRCUIT

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2014 DEC 3 PM 3:18

COURT ADMINISTRATOR
OFFICE OF APPEALS OF GA

NOTICE OF ADDRESS CHANGE AWARENESS

comes now the known claimants of said property, claim-
ment of \$500.00 in U.S. currency Kenneth McCall, claim-
ant of \$473.00 in U.S. currency Maurice C. Orr Jr., claimant
of \$800.00 in U.S. currency Timothy Scherang files this Not-
ice and shows to courts the following:

1.

That the insured plaintiffs were inmates of Jackson County Jail, 555 General Kiser Drive, Jefferson Ga. 30549 where they accepted in that their address was changed to: Bulloch County Jail, 1729 U.S. Hwy 30, Statesboro GA. 30458

Georgia

WHEREFORE the plaintiffs [prays] that any and all judgments entered in this case be sent to the Pro Se attorneys who are appearing for the up and coming Appeal in that the court should be afforded any other such relief as requested by

114 Submitted
Kenneth McCall

Make copies

P.S. One of the Notice of Appeals filed with the trial court is not included but the trial court can

RECEIVED IN OFFICE
2014 DEC -3 PM 3:11
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Timothy Schuening
TIMOTHY SCHUENING

KENNETH MCCALL

MAURICE C. ORR JR.
Maurice C. Orr Jr.

Respectfully Submitted, *Maurice C. Orr Jr.*
This 1st day of 12th, 2014

My 301 South, Statesboro, Georgia 30458.

My Jail, 555 General Jackson Drive, Jefferson, Ga. 30549; to Bullock County Jail, 1729 W.S.

are also writing to send the courts notice that our addresses have changed from "Jackson

we the courts original transcript and record of the above referenced case.

with McCall's appeal filed and the order sent to the lesser court if not already sent to

With all due respect to the law I hope to have my appeal, Timothy Schuening's Appeal, and

ing with a copy of the Notice of Appeal.

Higher court will be passed down to the trial court for the record and transcript to be sent

Appeal according to due process of law if we can show service of the notice or order from

if even though the Piedmont Judicial Circuit Court of Jackson County are trying to deny us

sumed" that they are denying us our right to an Appeal. We perfectly understand our rights.

Me and a couple others have filed our Notice of Appeals with the trial courts but they are "I

Salutation Clerk, I am writing in concerns of case # W14CV060.

Dear, Clerk of the Court of Appeals,

R.E. concerning case # W14CV060

MAURICE C. ORR JR. 12/1/2014

Handwritten scribbles or marks at the bottom of the page.

THE STATE OF GEORGIA

EX. TEL.

GRAD SMITH

DISTRICT ATTORNEY

PIEDMONT JUDICIAL CIRCUIT

\$1473.00 in U.S. Currency

\$550.00 in U.S. Currency

\$500.00 in U.S. Currency

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

2014 DEC -3 PM 3:10

RECEIVED IN OFFICE

NOTICE OF ADDRESS CHANGE AWARENESS

COPIES NOW THE KNOWN CLAIMANTS OF SAID PROPERTY; CLAIM-

MENT OF \$550.00 IN U.S. CURRENCY KENNETH MCCALL, CLAIM-

ANT OF \$473.00 IN U.S. CURRENCY MAURICE C. ORR JR., CLAIMANT

OF \$500.00 IN U.S. CURRENCY TIMOTHY SCHENCK FILES THIS NOT-

ICE AND SHOWS THE COURTS THE FOLLOWING:

1.

THAT THE NAMED CLAIMANTS WERE INMATES OF JACKSON COUNTY

JAIL, 555 GENERAL JACKSON DRIVE, JEFFERSON GA. 30549 WHERE

THEY ACCEPTED MAIL.

THAT THEIR ADDRESS HAS CHANGED TO: BULLOCH COUNTY JAIL, 1729

U.S. HWY 301 SOUTH, STATESBORO GA. 30458

WHEREFORE THE CLAIMANTS [hereinafter "Claimants"] pray;

THAT ANY MAIL CONCERNING THIS CASE BE SENT TO THE PRO SE

ATTORNEYS UPON OVERTURE.

THAT THE CONDITIONS CONCERNING THE UP AND COMING APPEAL IN

ABOVE REFERENCED CASE BE SENT TO THE PRO SE. ATTORNEYS

THAT THE SAID CLAIMANTS ARE AFFORDED ANY OTHER SUCH RELIEF

AS SO GRANTED BY LAW

Respectfully Submitted

Kenneth C. Orr

Timothy Schenck

R.E. Concerning Case # W14CV060

MAURICE C. ORR JR. 12/01/2014

Dear, Clerk of the Court of Appeals,

Salutation Clerk, I am writing in concerns of case # W14CV060.

We and a couple others have filed our Notice of Appeals with the trial courts but they are "I

assumed" that the are denying us our right to an Appeal. We perfectly understand our rights.

But even though the Piedmont Judicial Circuit Court of Jackson County are trying to deny us

our Appeal according to due process of law if we can show service of the notice and order from

the higher court will be passed down to the trial court for the record and transcript to be sent

along with a copy of the Notice of Appeal.

With all due respect to the law I hope to have my appeal, Timothy Schuenings's Appeal, and

Kenneth McCall's appeal filed and the order sent to the lesser court if not already sent to

review the courts original transcript and record of the above referenced case.

We are also willing to send the courts notice that our addresses have changed from "Jackson

County Jail, 555 General Jackson Drive, Jefferson, Ga. 30549; to Bulloch County Jail, 1729 U.S.

Highway 301 South, Statesboro, Georgia 30458.

This 1st day of 12th, 2014

Respectfully Submitted, Maurice C. Orr Jr.

MAURICE C. ORR JR.

~~DR. K. McCall~~

KENNETH McCALL

TIMOTHY SCHUENINGS

~~MAURICE C. ORR JR.~~

~~DR. K. McCall~~

P.S. One of the Notice of Appeals filed with the trial court isn't included but the trial court can make copies

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COURT OF APPEALS OF GA

CLERK OF COURT

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

Date: December 5, 2014

To: Shalanda M.J. Miller, Esq., Fulton County Office of the County Attorney, 141 Pryor Street, S.W., Suite 4038, Atlanta, Georgia 30303

Docket Number: A15A0356 **Style:** Fulton County Board of Tax Assessors v. Piedmont Park Conservancy

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

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

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COURT OF APPEALS OF GA

IN THE COURT OF APPEALS
STATE OF GEORGIA

FULTON COUNTY BOARD OF)
TAX ASSESSORS,)
Appellant,)
v.)
PIEDMONT PARK CONSERVANCY,)
Appellee.)

APPEAL NO.: A15A0356
Fulton County Superior Court
Case No.: 2013CV239260

REPLY BRIEF OF APPELLANT
FULTON COUNTY BOARD OF TAX ASSESSORS

R. David Ware, County Attorney
Georgia Bar No. 737756

Cheryl M. Ringer
Georgia Bar No. 557420
Cheryl.Ringer@fultoncountyga.gov

Shalanda M. J. Miller
Georgia Bar No. 122544
Shalanda.Miller@fultoncountyga.gov

FILED IN DROP BOX

Fulton County Office of the County Attorney
141 Pryor Street SW, Suite 4038
Atlanta, Georgia 30303
(404) 612-0246 (Office)
(404) 730-6324 (Facsimile)

Counsel for the Fulton County Board of Tax Assessors

INTRODUCTION

Piedmont Park Conservancy is asking this Court to ignore the plain language of the governing tax exemption statute and Georgia Supreme Court precedent to reach a conclusion inconsistent with the intent of the law: Piedmont Park Conservancy wants this Court to find its commercial rental property exempt from taxation. That is just not how it works when it comes to ad valorem property tax exemptions. The property owner has to choose: to operate a commercial rental property or a charity. The governing statute and interpreting case law do not allow for both on a single property. Neither the governing statute nor the relevant Georgia Supreme Court case law provide for part of a building or a portion of a property to be exempted from ad valorem taxation under the “purely public charity” property tax exemption.

During its amendments to the tax exemption statute, as recently as 2006, 2007 and 2010, the General Assembly could have provided exemptions for use of a portion of a building, some of the time; it did not. In fact, the plain language of the governing statute refers repeatedly to a building and requires exclusive use of that building for charitable purposes to qualify for a charitable exemption. O.C.G.A. § 48-5-41(d). The Georgia Supreme Court analyzing the tax exemption statute could

have found a partial exemption for partial use of a property; it did not. To the contrary, the Georgia Supreme found that “the use of **the property** must be **exclusively** devoted to [its] charitable pursuits.” Nuci Phillips Memorial Foundation, Inc. v. Athens-Clarke County Board of Tax Assessors, 288 Ga. 380, 381 (2010)(citing York Rite Bodies of Freemasonry of Savannah v. Board of Equalization of Chatham County, 261 Ga. 558, 559 (1991))(emphasis added).

Piedmont Park Conservancy has decided to operate a commercial rental property, which disqualifies the property from any ad valorem tax exemption under O.C.G.A. § 48-5-41. Accordingly, the Fulton County Board of Tax Assessors (“Tax Assessors”) respectfully requests that this Court reverse the trial court’s grant of a proportional tax exemption for the property located at 1071 Piedmont Road in the City of Atlanta, in Fulton County, Georgia identified by tax map parcel number 17-0106-0009-048-7 (“subject property”).

As detailed in the Brief of Appellant Fulton County Board of Tax Assessors, the trial court’s decision must be reversed because (1) Piedmont Park Conservancy has not met its burden to prove entitlement to the “purely public charity” tax exemption, as the subject property is being used as commercial rental property and Piedmont Park Conservancy never provided evidence of any charitable use of the

subject property; (2) the statute governing the “purely public charity” tax exemption, which is to be strictly construed in favor of taxation, does not allow for proportional exemptions; and (3) such an exemption would provide Piedmont Park Conservancy and its commercial tenants an impermissible business advantage in a competitive market. Thus, the trial court erred in granting any tax exemption for the subject property, including a proportional exemption.

I. STATEMENT OF FACTS

Central to the evaluation of eligibility for property tax exemption is the use of the property. See Nuci Phillips, 288 Ga. at 381 (2010). Piedmont Park Conservancy’s endeavor to dismiss, as immaterial, the use of the entire property is self-serving and legally impermissible. Piedmont Park Conservancy wants this Court to ignore the evidence of the commercial use and income producing purpose of the subject property, yet prior to the instant litigation refused to provide evidence of the charitable use of the subject property to the Tax Assessors. Further, the evidence Piedmont Park provided after litigation commenced demonstrates that the subject property is primarily used to generate income for Piedmont Park Conservancy and its commercial tenants.

a. **Piedmont Park Conservancy Refused To Provide Any Evidence Of Charitable Use Of The Subject Property To The Tax Assessors**

After denial of tax exemption and prior to certification of this appeal to the Superior Court, the Tax Assessors specifically requested that Piedmont Park Conservancy complete an exemption application for the relevant time period from January 1, 2010 to January 1, 2012; Piedmont Park Conservancy has never provided the Tax Assessors any information regarding its charitable use of the subject property during 2010, 2011 and 2012. See Email correspondence from James McDonald, Tax Assessors' former Appraisal Manager for the Exempt Property Division, to Carol Wright, Piedmont Park Conservancy's VP – Finance & Administration, dated March 26, 2013 (R. 439-440); see also Affidavit of James McDonald ("McDonald Affidavit"), ¶ 17 (R. 444).

Further, Piedmont Park Conservancy did not disclose the commercial leases on the subject property for more than ten years. Deposition of Deborah L. McCown ("McCown Deposition"), 35:24-36:1 (R. 809-810). The leases were uncovered by the Tax Assessors during an onsite inspection in 2012. See Exempt Checklist dated October 3, 2012 (R. 434); see also Real Property Staff Review Form dated December 7, 2012 (R. 435). Piedmont Park Conservancy benefited

IN THE COURT OF APPEALS
STATE OF GEORGIA

THE STATE OF GEORGIA
ex. rel.

BRADLEY SMITH
DISTRICT ATTORNEY
PIEDMONT JUDICIAL CIRCUIT,

CIVIL ACTION

FILE NO.: #W14CV0660

V.S.

\$1473.00 LAWFUL U.S. CURRENCY,
\$5050.00 LAWFUL U.S. CURRENCY,
\$800.00 LAWFUL U.S. CURRENCY,
Appellants/Defendants, in rem,

CERTIFICATE OF SERVICE

This is to certify that we [The Claimants of the defendants in rem, hereinafter "Appellants"] in above named case No #W14CV0660 have this day served a true and correct copies of the foregoing Appeals by mailing said Appeal, a Motion to Consolidate Appeals, a Copy of Orr's Claim, a copy of Timothy Schoening's Claim, a copy of the States Complaint for forfeiture, Exhibits A-G/2 to the Court of Appeals for Georgia, with directions to file in the said court:

Clerk, Court of Appeals of Georgia
suite 501
47 Trinity Avenue
Atlanta, Georgia 30334

This 1st day of 12th month, 2014.

Maurice C. Orr Jr.
MAURICE C. ORR JR.

Bulloch County Jail
1729 U.S. Highway 301 South
Statesboro, Georgia, 30458

Timothy Schoening

Kenneth T McCall

IN THE APPELLATE COURT
STATE OF GEORGIA

THE STATE OF GEORGIA
ex. rel.

BRADLEY SMITH
DISTRICT ATTORNEY
PIEDMONT JUDICIAL CIRCUIT,

CIVIL ACTION

FILE No.: #W14CV0660

V.S.

\$1473.00 LAWFUL U.S. CURRENCY,
\$5050.00 LAWFUL U.S. CURRENCY,
\$800.00 LAWFUL U.S. CURRENCY,
Appellants, in rem,

CHANGE OF ADDRESS

Comes now the claimants of said property above [hereinafter Appellants in rem] through
Pro Se Attorneyship and shows the court the following:

1.

Appellants/claimants; Maurice C. Orr Jr., Timothy Schoening, Kenneth T. McCall no longer
accept mail at: Jackson County Jail, 555 General Jackson Drive, Jefferson Ga. 30549 but
instead of; Bulloch County Jail, 17257 U.S. Highway 301 South, Statesboro Georgia 30458

This 1st day of 12th, 2014. Respectfully Submitted Maurice C. Orr Jr.
MAURICE C. ORR JR.
Bulloch County Jail
17257 U.S. Highway 301 South
Statesboro, Georgia 30458

IN THE COURT OF APPEALS
STATE OF GEORGIA

The State of Georgia
ex. rel.

BRADLEY SMITH
DISTRICT ATTORNEY
PIEDMONT JUDICIAL CIRCUIT,

CIVIL ACTION

FILE No.: #W14CU0660

V. S.

\$1473.00 in U.S. Currency,
\$5050.00 in U.S. Currency,
\$800.00 in U.S. Currency,
Appellant, in Dem.

VERIFICATION

I hereby verify, under penalty of perjury, that the information contained in the within and foregoing Appeals filed pursuant to O.C.G.A. §5-6-37. is true and correct and to the best of my knowledge.

This 1st day of December, 2014. Respectfully Submitted *Maurice C. Ura Jr.*

MAURICE C. URA JR.
INMATE NO# 209285
Bulloch County Jail
17257 U.S. HIGHWAY,
301 South
Statesboro, Ga. 30458

IN THE COURT OF APPEALS
STATE OF GEORGIA

THE STATE OF GEORGIA

EX. REL.
BRADLEY SMITH
DISTRICT ATTORNEY
PIEDMONT JUDICIAL CIRCUIT,

CIVIL ACTION

FILE No.: # W/14CV0660

V. S.

MAURICE CHANDLER ORR JR.,
\$1473.00 LAWFUL U.S. CURRENCY,
Appellant

APPEAL

COMES NOW the Appellant as named above by and through Pro Se Attorneyship and shows the courts the following:

1.

BRIEF: On 10/09/2014 a forfeiture hearing was held in the referenced case No #W14-CV0660 concerning property of \$1473.00 in U.S. Currency belonging to the Appellant that was seized on 07/25/2014 by a OFC. Garvin Bethel of the Commerce Police Department (PO). During this hearing - Kenneth McCall & Timothy Schwening also argued in the trial court \$1473.00, \$5050.00, and \$800.00 in U.S. Currency vs. The State; whom was represented by a Andrew Crawford Georgia Bar #428903 - In trial Judge W. Malacklin founded the Appellant's property of \$1473.00 in U.S. Currency and others property forfeited to the State. Reasons stated: 1) Alleged violation of Controlled Substance Act, 2) case Maddox v. State [pag 4 (four) paragraph three (3)]. On 10/13/2014, 10/26/2014, 10/29/2014 with the trial court and the opposing counsel the Appellant filed three (3) separate Notice of Appeals requesting also that a courts record and transcript be included upon the Notice of Appeal for Appeal. [Exhibit C-D]. On 10/14/2014 the Appellant and others filed a Motion [Exhibit B]. On 12/2/2014 the Appellant filed a Appeal.

2.

The Appellant Appeals that the trial court Judge erred by granting Judgment in favor of the State, that: 1) police officers remained and conducted a stop and search of the Appellant's vehical without cause [Allen v. State the court of Appeal found that a search must be unrestrained choice of it's maker]. Police violated rights by searching the

Appellant's person without cause ② None of the indi-

vidues gave the officers consent to search the vehical
i.e. Kenneth McCall denies giving consent] the evidence found
during the unconsented search of the vehical should have
been suppressed and not used because it was found in

violation of the Appellant's Fourth Amendment rights, that
③ the evidence was insufficient to establish the Appellant

joint possession of a scheduled II controlled substance i.e.
The vehical was rented, it was rented by a individual who was
not in the car, and the renter "Dr. Clark" is a known ADHD

patient. Also the controlled substance was found hidden in the
passenger side door pocket, that ④ that the State failed to

meet it's burden, in Maddox v. State, the defendant was found
nd guilty of possession of cocaine and marijuana because the

state couple along with the possession a link to Maddox's cell
phone & a electric weighing device, with determinations of bill. How

EVER in \$121,000.00 U.S. CURRENCY v. STATES the trial court
Judge determined that "Cash alone is not enough to bring

forth of forfeiture, but coupled with nine items is sufficient."
The Appellant didn't knowingly know that there was

ever a presence of a controlled substance was ever inside of
the rented vehical. The state based their findings claimed on case

Maddox v. State that "Under these circumstances, the state may
elect to prosecute the occupants jointly or separately (Ken

nermore v. State, 222 Ga. 252 (199 SE 2d 471) (1966). " However
Maddox v. State, that "A finding of constructive possession of

contraband cannot rest upon mere spatial proximity to the
contraband, especially where, as here, the contraband is

hidden." Mitchell v. State, 268 Ga. 592, 593 (492 SE 2d 204) (1997). And "[e]vidence of mere presence at the scene of the crime, and nothing more to show participation of a defendant in the illegal act is insufficient to support a conviction." Whipple v. State, 207 Ga. App. 131, 132 (427 SE 2d 101) (1993) (citation and punctuation omitted). The Appellant recognizes that a forfeiture brought pursuant to O.C.G.A. 16-13-49 is civil and not criminal, that ⑤ "In law of civil forfeitures respecting property allegedly to be used or traceable to use to purchase controlled substance and in other areas of law, probable cause inquiry is flexible one in which courts must consider totality of the circumstances." Comprehensive Drug Abuse Prevention and Control Act of 1970 § 511(a)(6), 21 U.S.C. § 881(a)(6). U.S. v. \$121,000.00 in U.S. Currency, 1993, 999 F.2d 1503. Controlled Substances 170. The State failed to show more than spatial proximity, that the Appellant's defense pursuant to O.C.G.A. 16-13-49(e)(1)(A),(B),(D) and D.C.G.A. 16-13-49.(E)(2) that the Appellant, as stated in his "Claim" acquired the interest from three litigatame:nt sources [one, from Savannah Technical College the Appellant recieved money twice, a lump sum of \$497.00 'estimated', and a lump sum of \$500.00 'estimated' transferred through the SunTrust Bank. Two, \$500.00 from Capital City Credit Co.: Three, he maintained a adverage pay of \$20-25.00 dollars hourly working for P.O.A. Consultants gets paid on every Friday of the month.] the State failed to show other then these facts that the Appellant acquired the interest illegally. ⑥ that the owner of the car was in exclusive controlled and possession

of the contraband found in the vehical ⑦ that pursuant to Howell v. State, 283 Ga. 24 (2008) "A punitive forfeiture violates the Excessive Fines Clause if it is grossly disproportional to the gravity of a defendant's offense." U.S.C.A. Const. Amend. 8., on the stand On October 09th, 2014 in the Piedmont Judicial Circuit Court of Jackson County a Sgt. Black of Commerce Police Department stated that "a average street price of the three Amphetamine pills found would go for about \$30.00 dollars per [witness the Courts transcript] even after respondent Vincent Whet Stone forfeited \$392.00 LAWFUL U.S. CURRENCY the trial Court Judge still forfeited the Appellants \$1473.00 in U.S. Currency, respondent Kenneth McCall's \$5050.00 in U.S. Currency, respondent Timothy Screenings \$800.00 in U.S. Currency a grand total of \$7,715.00 in U.S. Currency for the sake of three (3) Amphetamine pills that may have been prescribed to the sole rentee of the vehical. IN Howell v. State, 283 Ga. 24 (2008) ["In considering whether a forfeiture in rem violates the Excessive Fines Clause, the court frames its inquiry in terms of the following considerations: (1) the harshness, or gross disproportionality, of the forfeiture in comparison to the gravity of the offense, giving due regard to (a) the offense committed and its relation to other criminal activity, (b) whether the claimant falls within the class of persons for whom the statute was designed, (c) the punishments available, and (d) the harm caused by the claimant's conduct; (2) the nexus between the property and the criminal offenses, including the deliberate nature of the use and the temporal and spatial extent of the use; and (3) the culpability of each claimant." U.S.C.A. Const. Amend. 8.] that the States forfeiture

violates the Excessive Fines Clause. ⑧ Again reframing to the criminal aspect of the case respecting the decision made in *Parker v. State*, stated "that especially when an officer is operating under the exigent circumstances required for a warrantless search of a car, we cannot require a police officer to radio to another officer all the information he has about a suspect, the source of his information, and the background of his informant in order that the receiving officer may make an independent determination as to whether he has probable cause to stop and search the automobile in question.... [The] searching officer need not personally be aware of all the facts which would support a probable cause determination so long as it can be established by evidence that the searching officer's actions were the end result of a chain of information-sharing, one link of which is an officer in possession of the information requisite to support an independent judicial assessment of probable cause." However, in *Duke v. State*,²⁷ the court of Appeals "acknowledged in response to a motion to suppress that the state was entitled to rely on the collective knowledge of law enforcement to satisfy the probable cause element to a warrantless search of an auto and its driver." However, while the arresting officers was acting appropriately by performing a stop and search, after receiving orders from his dispatch to stop a specific vehical believed to be involved in drug activity, the Court nonetheless suppressed the evidence because the State failed to show the source of the information provided over the police radio or any reason for the order to make the stop." See sections 2-11, 3-2, and 4-9, *supra* on collective knowledge established an articulable suspicion.... IN My case, the Appellant argues that the arresting officer or the same — the searching officer Garvin Bethel of the Commerce Police Department, pulled the vehical over because of a litagitament

rent-a-Car drive out tag. No traffic laws were broken, the vehicle didn't come back as being stolen, the officer just stopped the mobile vehicle without cause, searched the Appellant's person & the rest of the individual due to a consent pat down search — finding no tools of a crime —, the officer — without warrant or consent — unlawfully searched the vehicle. The search of the Appellant's vehicle was unconstitutional and violate the "Unreasonable Searches and Seizures Clause" therefore the evidence used to bring forth the state forfeiture was without cause and unconstitutional and violates the Appellant's Fourth Amendment rights. Evidence should have been deemed by the trial court judge not admissible/not use against the same. Even being, the Appellant's currency was seized due to a violation of the Appellant's rights. Last ⑨ the trial court judge denied the State's "Motion for Default Judgment and Final Disposition of the property", but the property was still moved from the Commerce Police Department Evidence Custodian to a unknown bank account still pending the forfeiture hearing's outcome. [Witnesses, Kenneth McCall, Timothy Scavering, and the Piedmont Judicial Circuit Court recorded on October 09th 2014. of the civil forfeiture hearing — the court official Transcript.] The Appellant's finding that during the forfeiture hearing held in above referenced case the trial court judge W. Mclocklin made a erroneous decision.

WHEREFORE, the Appellant prays:

- 1) that the decision made during the forfeiture hearing in above referenced case by trial court judge W. Mclocklin be reversed
- 2) that Judgment be granted in favor of the Appellant and be filed this App
- 3) that Court of Appeals order for a transcript to be included with this Appeal for the Appellant, asked for it in said "Notice of Appeal" Exhibit
- 4) that the Appellant be afforded any other such relief and remedies as so granted by law.

THIS 10/26/2014 Maurice Oer

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

Date: December 4, 2014

To: Mr. Edward Tyrone Ridley, GDC570139 L4-107-B, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

Docket Number: A14A1879 **Style:** Edward Ridley v. The State

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

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

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CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

~~Edward T. Ridley~~

IN THE COURT OF APPEALS, STATE OF GEORGIA

EDWARD T. RIDLEY

Bay Co.
Case No. 95-2844 Florida
STATE OF FLORIDA Case No. 144A 1879

MOTION TO COMPEL

Petitioner, respectfully moves this Honorable
to compel the State of Florida to respond to
Ridley motion to withdraw his July 29, 1996
Contract for breach of Contract in regards
to both Co Court of Appeals case 144A 1879 and
regarding corp. case 13R-149 that was filed
or mailed to Public Defender Hermand D. Larnore
Panama City, Fla to mail back in October 2014
to file since FS. 943.043 was not completed
in Ridley Fla. Contract. Filed in good faith this
1st day of Dec. 2014.

Respectfully Submitted
Edward T. Ridley, Esq. 570139
Edward T. Ridley, Esq. 570139
Johnson State Prison
P.O. Box 344
Winghtsville, Ga. 31096

Certificate of Service

I, Edward T. Ridley, do hereby certify that I have on the below date served a carbon copy of the foregoing motion to compel on the below by placing same in properly addressed stamped envelope to secure first class delivery upon

Office of

Heman D. Lamore

Public Defender

Fourteenth Judicial Circuit

P.O. Box 580

Panama City, Fla. 32404-6580

Executed this 1st day of December 2014

Sincerely

Mr. Edward T. Ridley, 570139

Mr. Edward T. Ridley, 570139

Thomson State Prison

P.O. Box 344

Wingtsville, Ga. 31096

THE COURT OF APPEALS, STATE OF GEORGIA

RIDLEY V. THE STATE NO CASE NO. ASSIGNED

From denial of Emergency Remand to Jurisdiction, OCGA § 17-9-4, Rule 33.10 that was denied Oct 31, 2014, mailed Nov 17, 2014, Appeal / Nov 13, 2014 set this Court copy you stamped filed Nov 19, 2014, see attached motion to Compel.

EMERGENCY MOTION TO COMPEL

Appellant, prose, respectfully moves this Honorable

Court to Compel the Clerk of Superior Court to forward you the record on appeal in above motion and Notice of Appeal timely filed as Ridley provided this Court with copy. As this Court knew from case no this Appeal timely, the state will claim Ridley didn't file this Appeal timely. He pay this Court will demand they send record, and answer not filed that Ridley have mailed this Court pursuant to Rules of Court. filed in good faith. This 1st day of December 2014

Respectfully Submitted, ~~Edward L. Ridley~~ 5/20/13

Mr. Edward L. Ridley, 520139
Johnson State Prison
P.O. Box 344
Winstonsville, Ga. 31096

Pages 17 + C

~~Edward L. Ridley~~

PROOF OF SERVICE

I, Edward T. Ridley, 520139, Prose, do hereby certify that on the date below I served in carbon copy of the foregoing motion to compel, by placing same in properly addressed stamped envelope to secure first-class delivery upon

Mrs. Sean Rogers
Clerk of Superior Courts
P.O. Box 1470 by mailing deliver
same to grandmother to hand deliver
Cordelia, Ga. 31015

Executed this 1st day of December 2014

Sincerely,
Mr. Edward T. Ridley, 520139,
Prose Appellant
Johnson State Prison
P.O. Box 344
Winghamsville, Ga. 31096

IN THE SUPERIOR COURT OF CRISP COUNTY
STATE OF GEORGIA

KIDLEY V. THE STATE, 13R-149

EMERGENCY MOTION TO COMPEL

Petitioner, prase, respectfully moves this Honorable

Court to compel the Clerk of Court to forward

All records from denial of Emergency Permanent Inj-

unction/DC.a.179-4, Rule 33:00 that was denied by

Judge Hughes on October 31st 2014. Not to omit

Anything from record that have been filed to date

in above case. Pursuant of Rules of Court and

Appellant procedure. filed in good faith.

Executed this 13th day of November 2014

Respectfully Submitted

Mr. Edward J. Hughes, 57039

Mr. Edward J. Hughes, 57039

SCHWEN STATE PRISON

P.O. Box 3411

Winghtsville, Ga. 31796

(Court Copy)

Denise Jackson

P.O. Box 5510

Cullee, Ga. 31010

Copy A.
Edward J.

from its failure to disclose the leases by receiving a tax exemption for the entire property for almost ten years. See Letter from the Fulton County Board of Tax Assessors to Piedmont Park Conservancy dated October 26, 1999 (R. 256)(granting exemption); see also Real Property Staff Review Form dated December 7, 2012 (R. 435)(denying exemption for 2010, 2011 and 2012). Piedmont Park now seeks to continue to benefit from its failure to provide evidence demonstrating exemption by asking this Court to ignore the commercial and income generating uses of the property. Appellee's Brief, p. 5.

Not only is it legally impermissible to ignore the use and circumstances of the entire property, it is impossible in this case as the commercial use of the property is central to how the subject property operates. See generally Lease Agreement between Piedmont Park Conservancy, Inc. and Willy's Mexicana Grill, Inc. dated November 15, 2001 ("Willy's Lease") (R. 257-330); Lease Agreement between Piedmont Park Conservancy, Inc. and Orange and Scarlett's, LLC dated June 17, 2002 ("Orange and Scarlett's Lease") (R. 331-407); Piedmont Park Conservancy's Operating Statements for 2008, 2009, 2010, 2011 and 2012 (R. 408-417); Tenants' Gross Sales Reports (R. 418-429).

b. **The Evidence Demonstrates That The Subject Property Is Primarily Used To Generate Income**

The only evidence Piedmont Park cites as proof of its charitable use of the subject property is the affidavit of Ms. Deborah L. McCown (“McCown Affidavit”), the Chief Executive Officer of the Piedmont Park Conservancy, filed in support of the Piedmont Park Conservancy’s Motion for Summary Judgment.¹ See Appellee’s Brief, p. 4. Despite its burden to prove entitlement to tax exemption, even at the trial court level, Piedmont Park Conservancy did not provide evidence of the amount of square footage of the subject property being used for charitable purposes, did not detail how often charitable activities occur at the subject property, and did not provide brochures or pamphlets detailing the costs or locations of its charitable activities. See generally McCown Affidavit (R. 1096-1099).

Based on the affidavit testimony, it is not clear that all of the charitable activities listed occur on the subject property, occur regularly, or are in fact

¹ The Tax Assessors acknowledge that the 1999 Exemption Application is also in the record; however it is outdated and inaccurate for tax years 2010, 2011 and 2012, the times relevant to this appeal.

charitable. See McCown Affidavit, pp. 4-5 (R. 1098-1099). For example, the affidavit list summer camps, an open-air community market, and sports league programs as some of its charitable activities, but does not include information as to whether these are seasonal events, if there are costs associated (that would preclude participation by some members of the public), or where the events occur. See McCown Affidavit, pp. 4-5 (R. 1098-1099).

In fact, Piedmont Park Conservancy's operating statements establish that the property generates substantial income from the rental of the facility and from the fees for its programs (in addition to the restaurant rental income detailed below). See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417). In 2010, Piedmont Park Conservancy collected fees related to rental of the property of \$831,343.61 and fees related to program attendance of \$397,381.91; in 2011, the fees collected related to rental of the property were \$795,146.94 and the fees collected related to program attendance were \$436,131.88; and in 2012, the fees collected related to rental of the property were \$813,773.02 and the fees collected related to program attendance were \$482,227.37. See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417).

c. **The Subject Property Generates Commercial Income**

The evidence in the record demonstrates the significant commercial use of the subject property. See generally Lease Agreement between Piedmont Park Conservancy, Inc. and Willy's Mexicana Grill, Inc. dated November 15, 2001 ("Willy's Lease") (R. 257-330); Lease Agreement between Piedmont Park Conservancy, Inc. and Orange and Scarlett's, LLC dated June 17, 2002 ("Orange and Scarlett's Lease") (R. 331-407); Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417); Tenants' Gross Sales Reports (R. 418-429). Piedmont Park Conservancy's Chief Executive Officer, admits that the purpose of renting the property to commercial tenants was to secure income. See McCown Deposition, 34:6-9 (R. 808). Piedmont Park Conservancy's Chief Executive Officer, further admits that the commercial tenants – corporations with private interests – were making income that was not used for Piedmont Park Conservancy's charitable purposes. See McCown Deposition, 34:10-22 (R. 808).

The evidence shows that the commercial tenants were generating significant income and profit from the property.² See Tenants' Gross Sales Reports (R. 418-429). Specifically, in 2010 the corporate tenants' gross sales were at least \$315,607.71 over and above what was paid in rent to Piedmont Park Conservancy; in 2011 the corporate tenants' gross sales were at least \$548,093.76 over and above what was paid in rent to Piedmont Park Conservancy; and in 2012 the corporate

² The financial information for the corporate tenants is incomplete, not all monthly sales data from both tenants is available for the relevant years. Specifically, for 2010 there is only data for Orange and Scarlett's; for 2011 there is data for the entire year for Orange and Scarlett's, and for Willy's for September, October, November and December; and for 2012 there is only data for Willy's for January, February, March, April and May. See Tenants' Gross Sales Reports (R. 418-429). Even assuming the tenants made no additional sales from the businesses they operate on the subject property in the remaining months of the year, the tenants generated significantly more income than what was paid in rent to Piedmont Park Conservancy. See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417); Tenants' Gross Sales Reports (R. 418-429).

tenants' gross sales were at least \$310,235.32 over and above what was paid in rent to Piedmont Park Conservancy. See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417); Tenants' Gross Sales Reports (R. 418-429).

Although legally impermissible, Piedmont Park Conservancy asks this Court to ignore these material facts because there is no statutory or legal scheme that allows an institution to operate a commercial rental property and for that property to simultaneously qualify for tax exemption. Based on the facts of this case and the well-established law in this area, the trial court's grant of proportional tax exemption must be reversed.

II. ARGUMENT AND CITATION OF AUTHORITIES

(1) Piedmont Park Conservancy Has Not Proven Entitlement To The Public Charity Tax Exemption

In Appellant's Brief, the Tax Assessors discussed in detail Piedmont Park Conservancy's failure to meet its burden to prove its entitlement to the "purely public charity" tax exemption. Appellant's Brief, pp. 13-20. Without abandoning those arguments, the Tax Assessors will briefly demonstrate that Piedmont Park Conservancy has failed to meet its burden to prove entitlement to the public charity

tax exemption for the “non-leased portion” of the subject property. It is well settled that the taxpayer has the burden to prove its entitlement to a tax exemption. Thomas v. Northeast Georgia Council, Inc., Boy Scouts of America, 241 Ga. 291 (1978); Lamad Ministries, Inc. v. Dougherty County Board of Tax Assessors, 268 Ga. App. 798 (2004). When there is an exemption, that exemption should be strictly construed in favor of taxation and against the taxpayer. Collins v. Mills, 198 Ga. 18 (1944); Annandale of Suwannee, Inc. v. Gwinnett County Board of Tax Assessors, 242 Ga. 241 (1978).

As discussed in Appellant’s Brief, the Georgia Supreme Court has contemplated income producing uses of charitable property exempt from ad valorem property taxes under the current version of the statute governing the “purely public charity” property tax exemption, O.C.G.A. § 48–5–41, in Nuci Phillips. Nuci Phillips, 288 Ga. at 380 (2010). In Nuci Phillips, the Georgia Supreme Court stated that “in order for an institution to be granted a property tax exemption pursuant to [O.C.G.A.] § 48–5–41(a)(4), it must satisfy the [York Rite, 261 Ga. 558 (1991)] factors **and** [O.C.G.A.] § 48–5–41(c), (d)(1) and (2).” Nuci Phillips, 288 Ga. at 385 (2010) (emphasis added).

There are three York Rite factors which must be satisfied for a charitable exemption to be granted; “[f]irst, the owner must be an institution devoted entirely to charitable pursuits; second, the charitable pursuits of the owner must be for the benefit of the public; and third, the use of the property must be exclusively devoted to those charitable pursuits.” York Rite, 261 Ga. at 558 (1991). Elaborating on these factors, the Georgia Supreme Court stated:

(a) In determining whether the owner is an institution devoted entirely to charitable pursuits, it must be remembered that the mere facts that the owner is a non-profit institution, that its charter declares it to be a charitable institution, and that the institution serves a benevolent purpose do not necessarily lead to the conclusion that the institution is exempted from ad valorem taxation by [O.C.G.A.] § 48-5-41(a)(4). While all of those should be considered, no one of them will be conclusive. Instead, **the facts of each case must be viewed as a whole and all of the circumstances surrounding the institution must be considered.**

(b) As to the second factor, this court has often noted that “[t]here are infinite charities that deserve the plaudits of all mankind....” However, “[n]o matter how high the ideals of an institution, nor how lofty its purposes, in order for it to qualify as a charitable institution for tax exemption under [O.C.G.A. § 48-5-41(a)(4),] it **must have the sole purpose and activity of dispensing public charity.**”

(c) Finally, **the applicability of this tax exemption will turn upon a determination of how the property is being used by the institution.** “Mere latent ownership of property by an institution of public charity will not entitle [the property] to an exemption....” Nor will “[m]erely making real estate available to other public or charitable institutions

for their use [be] sufficient to qualify for the tax exemption.” Instead, **the use of the property must be exclusively devoted to conduct that benefits the public by furthering the charitable pursuits of its owner.**

York Rite, 261 Ga. at 558-559 (1991) (emphasis added, internal citations omitted).

Piedmont Park Conservancy is not entitled to the public charity property tax exemption for the non-leased portion of the subject property because Piedmont Park Conservancy is not “an institution devoted entirely to charitable pursuits,” as it operates a commercial rental property and is a commercial landlord; Piedmont Park Conservancy is not dispensing public charity, as it charges rent to use the non-leased portion of the subject property’s facilities and charges fees to participate in its activities; and the evidence supports that the primary purpose of the non-leased portion of the subject property is to raise income.

a. **Piedmont Park Conservancy Is A Commercial Landlord Not Devoted Entirely To Charitable Pursuits**

In evaluation of the first York Rite factor, whether an institution is devoted entirely to charitable pursuits, the Georgia Supreme Court requires that “the facts of each case must be viewed as a **whole** and **all of the circumstances surrounding the institution must be considered.**” York Rite, 261 Ga. at 559 (1991)(emphasis added). Contrary to Piedmont Park Conservancy’s assertions,

the Court cannot ignore material uses of the subject property. Based on the use of the subject property as a commercial rental property, Piedmont Park has demonstrated that it is a commercial landlord and not an institution devoted entirely to public charity. Accordingly, Piedmont Park Conservancy has not satisfied the first York Rite factor, has not met its burden to prove entitlement to the “purely public charity” tax exemption, and this Court should reverse the trial court’s grant of a proportional exemption in this case.

b. Piedmont Park Conservancy Is Not Dispensing Public Charity

In evaluating the second York Rite factor requiring that “the charitable pursuits of the owner must be for the benefit of the public,” an important measure to determine whether an institution is dispensing public charity is whether payment is required for the services provided. See e.g. Nuci Phillips, 288 Ga. at 386 (2010); Annandale at Suwanee, 242 Ga. at 241 (1978); Board of Tax Assessors of Ware County v. Baptist Village, Inc., 269 Ga. App. 848, 852 (2004); Fulton County Board of Tax Assessors v. Visiting Nurse Health System of Metropolitan Atlanta, Inc., 256 Ga. App. 475, 476-477 (2002); Chatham County Board of Tax Assessors v. Southside Communities Fire Protection, 217 Ga. App. 361, 364 (1995). The fact that an institution charges rent or fees does not automatically disqualify the

institution from tax exemption. Southside Communities Fire Protection, 217 Ga. App. at 364 (1995); Visiting Nurse Health System, 256 Ga. App. at 477 (2002). An institution may charge rent, as long as the institution's primary purpose is not the service of people who pay. Visiting Nurse Health System, 256 Ga. App. at 477 (2002); Nuci Phillips, 288 Ga. at 386 (2010).

In contrast, where rent or fees are required as a condition of an institution's services, then the institution will not be considered a "purely public charity." Visiting Nurse Health System, 256 Ga. App. at 477 (2002); Nuci Phillips, 288 Ga. at 386 (2010). For example, a home for mentally handicapped persons that received its full rental rate for all of its residents either from "the families of residents or government agencies," was "not sufficiently 'public' in nature" to qualify for the public charity property tax exemption under O.C.G.A. § 48-5-41(a)(4). Annandale at Suwanee, 242 Ga. at 241 (1978). However, where an institution charged fees but had a policy and practice of never asking a resident to leave for any reason including nonpayment of fees or charges, that institution was considered a "purely public charity" and tax exempt. Baptist Village, 269 Ga. App. at 852 (2004).

Here, Piedmont Park Conservancy's operating statements show that the property generates substantial by charging rent and fees for rental of the non-leased portion of the subject property and for attendance at its programs. See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417). In 2010, Piedmont Park Conservancy collected fees related to rental of the property of \$831,343.61 and fees related to program attendance of \$397,381.91; in 2011, the fees collected related to rental of the property were \$795,146.94 and the fees collected related to program attendance were \$436,131.88; and in 2012, the fees collected related to rental of the property were \$813,773.02 and the fees collected related to program attendance were \$482,227.37. See Piedmont Park Conservancy's Operating Statements for 2010, 2011 and 2012 (R. 412-417). Further, while the evidence demonstrates that rents and fees are charged, Piedmont Park Conservancy has not provided evidence that payment of rent or fees is not a requirement to use its facility or participate in its camps and classes. See generally McCown Affidavit (R. 1096-1099). Accordingly, Piedmont Park Conservancy has not satisfied the second York Rite factor and has not met its burden to prove entitlement to the "purely public charity" tax exemption. This Court should reverse the trial court's grant of a proportional exemption in this case.

c. **Primary Purpose Of The Subject Property Is To Raise Income**

When evaluating the third York Rite factor, Georgia courts look to the primary use of the property. Nuci Phillips, 288 Ga. at 387 (2010). The Georgia Supreme Court found that the charitable institution in Nuci Phillips was entitled to the “purely public charity” property tax exemption, in part, because “[a]lthough the organization **periodically** rents out part of its building to third parties, **the primary purpose of the building is not to raise income** but to provide services for those seeking mental health assistance. Any income raised is incidental to the primary use of the property.” Nuci Phillips, 288 Ga. at 387 (2010). (emphasis added). Here, Piedmont Park Conservancy’s operating statements show that the property generates substantial income from the rental of the non-leased portion of the subject property and from the fees for its programs. See Piedmont Park Conservancy’s Operating Statements for 2010, 2011 and 2012 (R. 412-417). Again, Piedmont Park Conservancy has provided no evidence that the rental activity is periodic or that the income raised is incidental to the primary use of the property. See generally McCown Affidavit (R. 1096-1099). Therefore, Piedmont Park Conservancy has not satisfied the third York Rite factor and has not met its

burden to prove entitlement to the “purely public charity” tax exemption. The trial court’s grant of a proportional exemption should be reversed.

d. Tax Assessors Have Consistently Maintained That None Of The Subject Property Is Entitled To Tax Exemption

In Appellee’s Brief, Piedmont Park Conservancy states that the Tax Assessors did not contest that the non-leased portion of the subject property meets the York Rite test for exemption. Appellee’s Brief, p. 9. That is absurd! The Tax Assessors have maintained, and are not abandoning, the position that **none** of the subject property qualifies for tax exemption. As the non-leased portion is a part of the whole property, it logically follows that the Tax Assessors have maintained that the non-leased portion of the subject property does not qualify for tax exemption.

(2) The Governing Statute Does Not Permit Proportional Exemptions

Piedmont Park Conservancy identifies two cases to support its assertion that the Tax Assessors must provide proportional exemptions. See Appellee’s Brief, p. 11. The Tax Assessors have briefed in detail why these case are not applicable here. See Appellant’s Brief, pp. 23-25. However, the Tax Assessors want to reiterate that when Peachtree on Peachtree Inn, Inc. v. Camp, 120 Ga. App. 403 (1969), was decided the language found at O.C.G.A. § 48-5-41(d)(2) did not exist.

Additionally, although Piedmont Park Conservancy states the Georgia law has not changed in any relevant way since the Peachtree Inn decision, O.C.G.A. § 48-5-41 now includes a subdivision specially exempting “homes for the aged.” O.C.G.A. § 48-5-41(a)(12). Specifically, the new subsection exempts “[p]roperty of a nonprofit home for the aged used in connection with its operation when the home for the aged has no stockholders and no income or profit which is distributed to or for the benefit of any private person and when the home is qualified as an exempt organization under the United States Internal Revenue Code, Section 501(c)(3), as amended, and Code Section 48-7-25, and is subject to the laws of this state regulating nonprofit and charitable corporations.” O.C.G.A. § 48-5-41(a)(12). Accordingly, if the facts that existed in the Peachtree Inn case were presented today Peachtree Inn property would be exempt under an entirely different statutory scheme from the “purely public charity” tax exemption. Not only is this a relevant change in law, it is a significant change in law, and calls into doubt whether the finding in Peachtree Inn is applicable to the present case.

The Georgia Supreme Court’s decision in Nuci Phillips provides the framework for analysis of the “purely public charity” tax exemption provided for in O.C.G.A. § 48-5-41(a)(4). Nuci Phillips, 288 Ga. at 380 (2010) In Nuci

Phillips, the Georgia Supreme Court clearly states that it considers the use of the entire property when evaluating a tax exemption. Nuci Phillips, 288 Ga. at 387 (2010). The court in Nuci Phillips did not divide the room being rented from the use of the entire property to arrive at a proportional exemption. See generally Nuci Phillips, 288 Ga. at 380 (2010). The Georgia Supreme Court found that an institution could engage in incidental, periodic non-charitable activities to raise income and maintain exemption for its entire property as long as the primary purpose of the building is not to raise income but to provide charitable services. Nuci Phillips, 288 Ga. at 387 (2010).

However, the Georgia Supreme Court noted that not all charities qualify for tax exemption. Nuci Phillips, 288 Ga. at 384-385 (2010). Specifically, the Georgia Supreme Court stated that

By emphasizing in the 2007 amendment the previous qualifications for a “purely public charity,” including that the property must be used “exclusively” for the charitable purposes of the institution, the General Assembly sought to clarify that the tax exemption continues to be unavailable to certain charitable institutions. . . . certain institutions are not allowed to qualify for the exemption even though substantial charitable activity takes place on the property if the property is not used exclusively for charitable purposes. See Board of Equalization v. York Rite Bodies of Freemasonry of Savannah, 209 Ga. App. 359, 360 (1993) (denying exemption to a Masonic lodge

because it also devoted numerous resources to pursuits that benefitted only its members).

Nuci Phillips, 288 Ga. at 384-385 (2010).

Contrary to Piedmont Park Conservancy's assertions, the Tax Assessors recognize that charitable institutions may use their properties for non-charitable purposes, generate income and maintain their charitable exemption. See generally Nuci Phillips, 288 Ga. 380. However, as demonstrated in Nuci Phillips, a charity is not entitled to exemption when the property is not used exclusively for charitable purposes; or, more specifically, exemption does not apply when many of the property's resources are devoted to non-charitable pursuits. Id. Here, Piedmont Park Conservancy is not entitled to the "purely public charity" exemption because the subject property has numerous resources – employees managing the commercial leases, building space, parking, street frontage, outdoor dining space – devoted to the commercial rental of the property. Similar to York Rite, it is appropriate to deny exemption in this case because Piedmont Park Conservancy has devoted numerous resources to the benefit of the commercial rental property. Therefore, the trial court erred in its grant of proportional exemption and must be reversed.

(3) Piedmont Park Conservancy Should Not Be Allowed An Unfair Business Advantage

Granting Piedmont Park Conservancy an exemption in this case would provide Piedmont Park Conservancy and Piedmont Park Conservancy's commercial tenants an undue and unfair business advantage in a commercial real estate and restaurant market that is thriving due to its proximity to Piedmont Park. First, as the commercial landlord, Piedmont Park benefits by not having to pay taxes on the full value of its property. Landlords competing in the open market do not have such a benefit; they are required to pay taxes on the full value of their property even when that property is vacant, and must consider such costs when setting rental rates.

Further, the proportional exemption granted in this case extends to the subject property's parking spaces, store frontage, and outdoor dining space, despite the fact that these amenities benefit the commercial tenants and are used solely by the commercial tenant's customers. In a competitive market, the taxes associated to the value of such amenities would be passed on to the tenant; it is a savings and a market advantage when a tenant does not have to pay such taxes. Accordingly,

the proportionally exempted commercial landlord can afford lower rental rates; and the tenants of such a landlord enjoy lower costs.

As noted in Appellant's Brief, The Georgia Supreme Court frowns on such advantages being granted to businesses "in direct competition with private concerns which are engaged in the same business but enjoy no tax-exemption benefit." United Hospitals Service Association v. Fulton County, 216 Ga. 30, 34 (1960); accord First Congregational Church v. Fulton County Board of Tax Assessors, 320 Ga. App. 868, 878 (2013). The Georgia Supreme Court goes on to state "[i]f our system of private enterprise is to survive, government must not b[y] exempting competitors of free enterprise from taxes aid in destroying it by such unfair competition." Id.

(4) Piedmont Park Conservancy Is Not Entitled To Any Exemption

Piedmont Park Conservancy argues that under the reinvigorated plain language of the governing statute it is entitled to operate a commercial rental property and remain tax exempt. Appellee's Brief, pp. 22-28. There is no reading of the statute that allows such an absurd outcome. O.C.G.A. § 48-5-41(c) states:

The property exempted by this Code section . . . **shall not be used for the purpose of producing private or corporate profit and income** distributable to shareholders in corporations owning such property or

to other owners of such property, and **any income from such property shall be used exclusively for** religious, educational, and **charitable purposes** or for either one or more of such purposes and for the purpose of maintaining and operating such religious, educational, and charitable institutions.

(emphasis added). O.C.G.A. § 48-5-41(d)(2) states:

With respect to paragraph (4) of subsection (a) of this Code section, **a building which is owned by a charitable institution that is otherwise qualified as a purely public charity** and that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and **which building is used by such charitable institution exclusively for the charitable purposes of such charitable institution**, and not more than 15 acres of land on which such building is located, may be used for the purpose of securing income **so long as such income is used exclusively for the operation of that charitable institution**.

(emphasis added). Here, by function of the commercial leases on the subject property, the property is being used to produce private corporate profit and income, which excludes the subject property from tax exemption pursuant to O.C.G.A. § 48-5-41(c). Additionally, also by function of the commercial leases, the income from the property is not exclusively used for charitable purposes as it is being used by the commercial tenants, which excludes the subject property from exemption under O.C.G.A. § 48-5-41(c) and (d)(2).

Further, O.C.G.A. § 48-5-41(d)(2) requires that the property meet the York Rite factors, as it applies to “a building which is owned by a charitable institution that is otherwise qualified as a purely public charity.” See Nuci Phillips, 288 Ga. at 384 (2010). As detailed above and in Appellant’s Brief, the subject property does not satisfy the York Rite factors. Therefore Piedmont Park Conservancy cannot demonstrate entitlement to the exemption under any reading of the statute and the trial court’s grant of proportional exemption must be reversed.

Finally, finding the subject property exempt despite it being used as a commercial rental property generating private corporate profit, is certainly contrary to statutory intent and the Georgia Supreme Court’s reluctance to grant advantages to businesses “in direct competition with private concerns which are engaged in the same business but enjoy no tax-exemption benefit.” United Hospitals Service, 216 Ga. at 34 (1960); accord First Congregational, 320 Ga. App. at 878 (2013). Thus, the trial court’s grant of a proportional exemption must be reversed.

III. CONCLUSION

Based on the facts in this case and the law in this area, the Fulton County Board of Tax Assessors respectfully requests that this Court reverse the trial court’s grant of a proportional tax exemption for the subject property because

Piedmont Park Conservancy has not met its burden to prove entitlement to the “purely public charity” tax exemption; the statute governing the “purely public charity” tax exemptions does not permit proportional exemptions; and a tax exemption would provide Piedmont Park and its tenants an impermissible business advantage. For the all of the foregoing reasons, judgment in favor of the Tax Assessors is warranted.

Respectfully submitted this 4th day of December, 2014.

/s/ Shalanda M. J. Miller

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of **BRIEF OF APPELLANT FULTON COUNTY BOARD OF TAX ASSESSORS** on Appellee's counsel by depositing a true and correct copy of same in the United States mail with proper postage attached and addressed as follows:

Clark L. Calhoun, Esquire
Alston & Bird, LLP
One Atlantic Center
1201 Peachtree Street
Atlanta, Georgia 30309-3424

Submitted this 4th day of December 2014.

/s/ Shalanda M. J. Miller
Shalanda M. J. Miller
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COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 8, 2014

To: Mr. William T. Murray, GDC469640, Georgia Diagnostic and Classification Center, State Prison, P.O. Box 3877, Jackson, Georgia 30233

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

EVERYTHING I HAVE HAD TO CHECK THINGS IN MY FAVOR
SOMETIMES, OTHERS SAID YOU HAVE TO COMPLY WITH THE
DEAR: CLERK OF THE COURT OF APPEALS
12-3-14

RE - A15.D0131

I filed a Discretionary Application
From a denial of a Request for an out-of-time
Appeal asserting ineffective assist. of counsel (fail
to file a notice of appeal from conviction I
received in Barlow Co. Superior Court case # 15-274)
of habitual violator (Priority) count ONE AND
giving false info. to law enforcement count FOUR
In the out-of-time appeal I claimed I had lost
my right to appeal due to ineffective assist. of
counsel. The trial court did not hold a hearing
(evidentiary hearing) to determine if my counsel
was ineffective for failing to file a notice
of appeal of these convictions. and I made every
effort to file a notice of appeal and did not tell
my attorney I did not want to appeal my conviction
under ~~Mass v State Floyd 279 GA App 21~~ (Quoting)
when a defendant loses his right to file a timely
notice of appeal due to ineffective assist. of counsel
From a judgment of a conviction and sentence as a
result of that ineffective counsel, a defendant is
entitled to an out-of-time appeal, AND
Quoting (Simmons v State 276 GA 525) when a
movant for an out-of-time appeal alleges deprivation
of the right to a direct appeal due to ineffective
of counsel, a Superior inquiry ~~(evidentiary hearing)~~
must be made (held)

you received this and any info concerning
any reply's you have made to me already
send something back so I know you
received this.

you may want to use my envelope,
self-addressed and stamp. To there having trouble
here etc. etc. etc. ~~etc. etc. etc.~~

Also can you send me something
anything that shows my convictions
and sentences where "reversed" in your
court on case # A12A0270. For some reason
they don't think you people are real or
that reversal is real. The phone number
here is (720) 504-2000. (I don't know what
else there is to do) you'll want to talk to
the warden to get this stuff fixed and
removed I know you don't normally do
this type stuff but it is Christmas and
my kids and family have not had a
Christmas from me in 10 years since this started
and I was told you can do this type
stuff. and my kids and family have
prayed so much and hard. I know some
one they would be willing to do this
anyway anything you can do to get me
home. This hand drawn certificate looks and
fits in a picture frame nicely (Diploma frame
they sell them at the Dollar General store, will
you see what you can do to get this done,

Quick Description: ON 8-22-11 I went to a Jury Trial ON: COUNT ONE Habitual violator (Driving w/o License) COUNT TWO Habitual violator D.U.I. COUNT THREE A.U.I. COUNT FOUR Giving false information to law enforcement I was convicted of COUNT ONE Habitual violator (Driving w/o License) ~~COUNT TWO Habitual violator~~ AND COUNT FOUR Giving false info.

I was acquitted by Jury of COUNT TWO ~~D.U.I.~~ Habitual violator D.U.I. COUNT THREE D.U.I.

I wished to appeal the convictions of COUNT ONE AND COUNT FOUR. Giving false info. BUT my (appointed attorney never filed an appeal) making him ineffective after numerous attempts to get him to appeal. I sought relief with an out-of-time appeal which the trial court denied Oct 7, 2014. Thereafter I filed requesting a discretionary appeal case # A1500131 due to ineffective assist for failing to file timely notice appeal. I also filed a "notice of appeal" with the trial court and requested the Court of Appeals to grant my application for a discretionary appeal and send that copy to the trial court so they would follow the proper procedure to docket my case and send the record and transcript to the court of appeals.

Basically, I've already filed a "notice of appeal" with the trial court BUT I am pretty sure if YOU the court of appeals sends an order granting them that

will send the record, transcript and notice of appeal to you as required. As I said you people are pretty much gods at this stuff so I was sending and filed a discretionary application with you A1500131 to grant and order the such. If the court grant my motion for an out-of-time appeal, I'll file the proper notice of appeal appealing those convictions. But I have not heard from you concerning the application I filed with your court. I am asking if it's granted you inform the trial court and inform me also. My docketing date was Nov 4 2014 this is Dec 4 2014. So I am requesting some kind of response. I know since I have a notice of appeal filed in the trial court already that a discretionary application is not required or even necessary but I was hoping you would grant it. So as I will get a hearing from you in my case. If the case ever does reach you it will be neat, and interesting to view, for you.

Your court "reversed" and found in my favor for the exact something on the habitual/victim count one. In a prior appeal case # A12A00220 so basically I am appealing again for the something on that habitual/victim count.

Will it be
25. will you please send something back so I know

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

December 8, 2014

To: Mr. Burke Tesfaye, GDC1042072, Rutledge State Prison, 7175 Manor Road, Columbus, Georgia 31907

Docket Number: Style: Burke Tesfaye 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 GEORGIA COURT OF APPEALS

FOR THE STATE OF GEORGIA

CRIMINAL INDICTMENT NO. Y-24507

SUPERIOR COURT OF FULTON COUNTY

SUPREME COURT OF GEORGIA

CASE NO. S15D0217

COURT OF APPEALS NO. A-15D0150

DOCKETED DATE: NOVEMBER 14TH, 2014

APPELLANT RECEIVED NOTIFICATION NOVEMBER 24TH, 2014

BURKE TESTAWE
APPELLANT

RECEIVED IN OFFICE
2014 DEC 8 PM 3:07
COURT OF APPEALS

V.
THE STATE OF GEORGIA
APPELLEE.

APPELLANT'S APPLICATION FOR DISCRETIONARY
APPEAL PURSUANT TO O.C.G.A.S. 5-6-35

AND
APPELLANT'S BRIEF

BURKE TESTAWE
APPELLANT-PRO-SE

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IN THE GEORGIA COURT OF APPEALS

FOR THE STATE OF GEORGIA

BURKE TESTA

Appellant,

VS.

STATE OF GEORGIA

Appellee,

Court of Appeals No. A15D0150

Superior Court Fulton County
Criminal Indictment No. Y-24507

Supreme Court of Georgia
Case No. S15D0117

PAUPER'S AFFIDAVIT

Comes Now, Burke Testa First being Duly Sworn, Deposits and States I am financially unable to pay the \$80.00 Filing Fee Required for Filing Costs in the Court of Appeals of Georgia and Request to Proceed In-Forma Pauperis as a Pro-Se Indigent Appellant and to be Relieved of any other Costs in this Matter that is before this Court.

Laurentius Marieste Alexander
Swoon, Notary Public
Missossee County, Georgia
My Commission Expires February 7, 2018
This is my Commission Expires February 7, 2018
Burke M. A.
Notary Public

Burke M. A.
SIGNATURE

JURISDICTIONAL STATEMENT

THIS CASE WAS TRANSFERRED FROM THE
SUPREME COURT OF GEORGIA CASE NO.
S15 DO217 ON ATLANTA, OCTOBER 29TH, 2014
TO THE GEORGIA COURT OF APPEALS
THE HONORABLE SUPREME COURT MET PURSUANT
TO ADJOURNMENT.

THE FOLLOWING ORDER WAS PASSED:
BURKE TESTA FAYE V THE STATE

THERE BEING NO BASIS FOR THIS COURT'S
SUBJECT-MATTER JURISDICTION, THE
CASE IS HEREBY TRANSFERRED TO THE
COURT OF APPEALS.
ALL THE JUSTICES CONCUR

Course of Proceedings & Disposition of Case

Criminal Indictment Superior Court of Fulton County

Count 1. Malice Murder

Count 2. Felony Murder with Armed Robbery

Count 3. Felony Murder with Aggravated Assault

Count 4. Armed Robbery of U.S. Currency

Count 5. Armed Robbery of Keys to a Van

Count 6. Kidnapping

Count 7. Aggravated Assault

Count 8. Kidnapping

Count 9. Possession of a Firearm

PART ONE

Brief of Appellant

STATEMENT OF CASE

Appellant Trial Commenced January 11, 2000 and concluded with the jury's return of its guilty verdict on all counts on January 14, 2000. On February 2, 2000 Appellant was sentenced to life imprisonment for the Malice Murder conviction the trial court vacated the two Felony Murder convictions and the convictions for the Felonies underlying both Felony Murder convictions.

The trial court imposed a consecutive life sentence for the kidnapping with bodily injury of the Murder Victim. A consecutive 15-year sentence for the Armed Robbery in which the keys were taken. A consecutive 10-year sentence for the kidnaping of the Employee and a consecutive 5-year sentence for the firearm possession.

DEFENDANT'S FAMILY RETAINED ATTORNEY SIDNEY L. MOORE, JR. WITH A RETAINER FEE OF \$5,000.00, WHO FILED A MOTION FOR NEW TRIAL ON FEBRUARY 28TH, 2001 AND AN AMENDED MOTION ON MAY 1ST, 2001. APPELLATE ATTORNEY KEPT FILING MOTIONS FOR CONTINUANCES AND DID NOT APPEAR AT THE JUNE 18TH, 2001 HEARING OR BY PRODUCTION ORDER OR HAVE THE DEFENDANT TRANSPORTED TO THE COUNTY JAIL TO AWAIT HIS HEARING. THE TRIAL COURT HAD ANOTHER HEARING SET [MOTION FOR NEW TRIAL] ON THE COURT DOCKET FOR JULY 9TH, 2001 BUT THE APPELLATE ATTORNEY AGAIN FAILED TO APPEAR OR HAVE THE DEFENDANT PRESENT. AN "ORDER" WAS ISSUED BY THE COURT ON JULY 10TH, 2001 BY HON. JUDGE JOHN J. GOSER THAT THE APPELLATE ATTORNEY WAS HEREBY "ORDERED" TO APPEAR BEFORE THIS COURT ON THURSDAY JULY 19TH, 2001 ON THE DEFENDANT'S MOTION FOR NEW TRIAL, FAILURE OF THE ATTORNEY TO APPEAR WOULD RESULT IN SANCTIONS AND APPELLATE ATTORNEY WAS ALSO ADVISED BY THE COURT TO GIVE A.C. COURT FOR THE RETAINER FEE OF \$5,000.00. THE DEFENDANT WAS NOT PRESENT AT THE HEARING AND WAS NOT EVEN AWARE THAT THERE WAS A HEARING. ON JULY 30TH, 2001 THE CLERK OF THE SUPERIOR COURT SENT THE DEFENDANT AN "ORDER" SIGNED BY THE HON. JUDGE JOHN J. GOSER ORDER DENYING MOTION FOR NEW TRIAL, SO ORDERED THIS 31ST DAY OF JULY, 2001. DEFENDANT WAS DENIED THE RIGHT TO BE PRESENT.

The Trial Court Appointed Appellate Counsel who in-Advance with the January 18th Order of this Court Filed a Timely Notice of Appeal on February 15th. The Appeal was Docketed in this Court on March 14th 2014 and Submitted for Decision on the Brits. Supreme Court of Georgia Decided September 16th 2008 the Supreme Court of Georgia Remanded the Armed Robbery Charge of being Sentenced illegal of 25 yrs. back to the Sentencing Court. Appellant Filed a Motion to correct Illegal Sentencing into the Sentencing Court of Fulton County that was Docketed into the Minutes of the Court on May 2nd 2014. Appellant Filed a Motion of Default in the Sentencing Court for not properly Answering In a timely manner G.L.C.A. § 15-6-21(a), (B), (c), (d) over a (90) Day Period, the Trial Court Finally Entered a Denial Order on the 24th Day of September, 2014. Appellant Filed a Notice of Appeal to the Sentencing Court and gave His "Notice" to the Supreme Court of Georgia of Intention to file an Application for a Discretionary Appeal for a writ of Certiorari to be granted, Case No. S15D0217. The Supreme Court Court of Georgia met Pursuant to Adjournment on October 29, 2014 and The following Order was Passed:

Burke Tesfaye v. The State

There being no basis for this Court's Subject-Matter Jurisdiction, The Case is Hereby Transferred to the Court of Appeals. This Case was Docketed into this Court on November 14th 2014 and Appellant Received Notice

through the Prison - Mail-room on November 24th 2014 that his Application should be reviewed within 30 Days of the Date on which the Application was filed. O.G.A.S 5-6-35.
 Appellant is filing a timely Application for Discretionary Appeal and Appellant's Brief in Response to the Notice of his Case being docketed into this Court under Case No. A15D0150

Brief of Appellant

Part One

STATEMENT OF FACTS

Brief of Law

The Grand Jury indicted the Appellant on Count 1 of Police Murder, Count 2 Felony Murder with Armed Robbery, Count 3 Felony Murder with Aggravated Assault, which was a multiplicitous Indictment and violated the Double Jeopardy Clause and the Multiple Jeopardy Clause by raising. Dyer, that the Defendant will receive more than one (1) Sentence for a single Crime. In *Malcolm v. State*, 203 Ga. 369, 434 S.E. 2d 999 (1993), in which we "noted" that where there is a single Victim the Defendant may be sentenced either on Police Murder or the Felony Murder, O.G.A.S 16-9-71(a).
 I think its Multiple Convictions for [one Victim] which violates the Double Jeopardy Clause. *Imperial v. State*, 245 Ga. 427, 435 (a) 265 S.E. 2d 565 (1980).
 Holds that when the jury returned a Guilty Verdict on Murder

Not Specifying whether Malice Murder or Felony Murder And Armed Robbery, the Defendant must be Given the benefit of the Doubt and the Felony Murder must Stand, [Waiving] both the Malice Murder Conviction and the Armed Robbery as an Underlying Felony to Felony Murder. Defendant was Prejudiced by the Prosecution For Sending three Types of Murders For the jury to deliberate and make a decision where there was only (1) One Victim, (2) One body, (3) One Action of Murder, which denied the Defendant a fair jury decision.

Jury Trial jurors⁵ were Confused (Trial Transcript Page 796 Lines 3-4) The Juror: Could you Give us an Exact Definition of what a Party of a Crime is?

Also See (Trial Transcript Page 797 Lines 7-10), The Juror: I think one of the issue that⁵ Confusing to me as to what constitutes Helping with a Crime I mean, I don't know to what degree a Person has to Go to be Considered in Helping to Commit the Crime. I Don't know if you can Answer that or Not.

(Jury Trial Transcripts January 11th - 13th, 2000) Trial Judge Requested the jury to Further deliberate on Considering the Evidence on which "murder", which the jury [Failed] to do and the Defendant was Sentenced illegally and in Correctly.

Malcolm V. STATE, Supra, 263 Ga. at 373 (5), 484 S.E.2D 479, "I am Authorized to State that Presiding Justice Benham joins in dissent (F.N.2), WE Acknowledge there can be rare instances where a Trial Court, upon Receiving Guilty Verdicts on both malice murder and Felony Murder Counts, may deem it Necessary to Sentence the Defendant only on the Felony Murder Conviction because, E.g., the Evidence to Support the malice murder did not Appear to the Trial Court to be Sufficient under Jackson v. Virginia; [As in this case] For the Supreme Court of Georgia on Appeal had declared the Defendant [A Party to a Crime] Defendant⁶ Defendant was the Aggressive Perpetrator

① ONE, the Co-Defendant was in possession of the Firearm at all times during the Armed Robbery. (a) Two, the Co-Defendant did the attacking on the victim by striking him with the Hand-gun (b) Three, the Co-Defendant fired the fatal shot that killed the victim, (4) Four, the Co-Defendant was arrested on May 6, 1997 by an Arrest Warrant while trying to elude police and avoid prosecution, (5) Five No DNA Evidence linked the Defendant to having any close contact with the victim, (6) Six, Co-Defendant fled out to one life sentence.

Part Two of Appellant's Brief
 Enumeration of Errors

I. Trial Court "Error" in not properly sentencing the Appellant on the correct "Murder" charge as the "Law" Directed in *Dempster v. State*, 245 Ga. 427, 435, (13), 265 S.E. 2d 565 (1980), holds that when the jury returned a guilty verdict on murder (as in this case) not specifying whether Malice Murder or Felony Murder and Armed Robbery, the Defendant must be given the benefit of the doubt and the Felony Murder must stand. Evictions both the Malice Murder conviction and the Armed Robbery as an underlying Felony to Felony Murder. Trial Court "Error" in sentencing (3) Three types of Murders for the jury to deliberate on.

3. Trial Court "ERRED" in Not Explaining to the Confused Jury more "SPECIFICLY" WHAT A PARTIE to A CRIME WAS.
4. Trial Court "ERRED" in RE-SENTENCING the Appellant ON the ARMED ROBBERY CHARGE OF 25 yrs. that WAS NULL & VOID UNDER GA. Statute AND SHOULD OF REMAINED [VOID].
5. Trial Court "ERRED" in NOT ORDERING FURTHER MENTAL HEALTH EVALUATIONS when the Appellant HAD BEEN FOUND INCOMPETENT WITH THE I. Q. OF A THIRD GRADER by a CLINICAL PSYCHOLOGIST, JAMES E. STARK, Ph.D.
6. Trial Court "ERRED" in DENYING Appellant's MOTION FOR NEW TRIAL WITH-OUT Appellant COUNSEL OR HIM BEING PRESENT WITH COUNSEL.
7. Trial Court "ERRED" in NOT ANSWERING the Appellant's MOTION TO CORRECT ILLEGAL SENTENCING in PROPER TIME O.C.G.A. § 15-6-21 (A), (B), (C), (D)
8. Trial Court "ERRED" in NOT FULLY ANSWERING AND CORRECTING the MOTION TO CORRECT ILLEGAL SENTENCING.

PART THREE OF APPELLANT'S BRIEF ARGUMENT AND CITATION OF AUTHORITY

I. STATEMENT OF LEGAL QUESTION PRESENTED

APPELLANT'S CASE INVOLVES THE CONSTITUTIONAL PROVISIONS OF THE U.S. CONSTITUTION AND THE FOURTEENTH AMENDMENTS AND THE GEORGIA CONSTITUTION OF 1983 - PARAGRAPH XIV OF THE BILL OF RIGHTS, THE TRIAL COURT ERRED AND ABUSED HIS DISCRETION IN NOT SENTENCING THE APPELLANT CORRECTLY AS THE LAW DIRECTED AND TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO [OBJECT] TO THAT TYPE OF ILLEGAL SENTENCING AND INEFFECTIVE FOR ALLOWING APPELLANT TO BE SENTENCED TO 25 YRS. FOR ARMED ROBBERY WHICH WAS A NULL-VOID.

II. STANDARD OF REVIEW

IN ORDER TO ESTABLISH INEFFECTIVENESS OF COUNSEL THE APPELLANT MUST BE PREPARED TO SHOW THAT TRIAL COUNSEL'S ACTIONS FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT BUT FOR THE ALLEGED INEFFECTIVE ACTS, THERE IS A REASONABLE PROBABILITY THAT THE RESULTS OF THE PROCEEDINGS DURING TRIAL AND AT THE TIME OF SENTENCING WOULD HAVE BEEN DIFFERENT; STRICKLAND -V- WASHINGTON, 466 U.S. 668 (1984); JOWERS V. STATE, 260 GA. 459 (1990).

PART THREE

CONCLUSION

IT WOULD BE A MISAPPRPRIATE OF JUSTICE FOR THE TRIAL JUDGE TO HAVE

SENTENCED THE APPELLANT TO THE MALICE MURDER COUNT WHERE A

"CONVICTED" JURY FAILED TO UNDERSTAND "A FELONY TO A TIME AND

COULD NOT DECIDE MALICE MURDER OR FELONY MURDER AND THE

APPELLANT WOULD BE REQUIRED BY THE COURT SENTENCING (3) THREE

TYPES OF MURDERS TO DELIBERATE ON BY THE JURY AND THE

TRIAL COURT DID NOT ABIDE BY THE LATEST INSTRUCTIONS OF

DAMPIER V. STATE, 245 GA. 477, 435 (13) S.E. 2D 525 (1980).

"WHERE A JURY RETURNS A GUILTY VERDICT ON MURDER, BUT NOT "SPECIFIC"

WHICH MURDER, THE FELONY MURDER MUST STAND [VACATING] BOTH THE

MALICE MURDER CONVICTION AND THE ARMED ROBBERY CONVICTION AS AN UNDERLYING

FELONY.

"FURTHER-MORE,

THE TRIAL JUDGE ERRED AND ABUSED HIS DISCRETION IN NOT PROPERLY ANSWERING

AND CORRECTING IN PROPER-TIME APPELLANT'S MOTION TO CORRECT ILLEGAL SENTENCING

THAT STILL IS IN CORRECT.

APPELLANT "TRYS" THAT HIS DISCRETIONARY APPEAL WILL BE (GRANTED)

IN THE INTEREST OF JUSTICE BEING PROPERLY SERVED.

ARE FULLY SUBMITTED BY:

PRO-SE - BURKE TESTA

KUTLEDGE STATE PRISON

C E R T I F I C A T E O F S E R V I C E

This is to certify that I have this day served the opposing party(ies) to this action with a true and correct copy of the within and foregoing Appellant's Application For Discretionary Appeal Pursuant To O.C.G.A.S. 5-6-35 and Appellant's Brief by placing a copy of same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and addressing it to:

CLERK, COURT OF APPEALS OF GEORGIA
47 TRINITY AVENUE, S.W.
Suite 501
Atlanta, Georgia 30334

GEORGIA DEPT. OF LAW
ATTORNEY GENERAL'S OFFICE
40 CAPITOL SQUARE, S.W.
Atlanta, GA. 30334

SWORN BEFORE ME ON

[Signature]
SIGNATURE

This 3rd day of December, 20 14

Laurentius Martijeste Alexander
Notary Public
Muscogee County, Georgia
My Commission Expires February 17, 2018

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 9, 2014

To: Mr. Bennie Lee Lynch, GDC1039824 L4, Johnson State Prison, Post Office Box 344, Wrightsville, Georgia 31096

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

**IN THE COURT OF APPEALS
THE STATE OF GEORGIA**

BENNIE LEE LYNCH)
Appellant, pro-se)

VS.)

THE STATE OF GEORGIA,)
Appellee)

CERTIORARI NO:
S15C0467

APPEAL NO;
A14A1467

RECEIVED IN OFFICE
2014 DEC 8 PM 3:10
CLERK OF SUPERIOR COURT
DOUGLAS COUNTY

NOTICE OF APPEAL

Notice is hereby given that Bennie Lee Lynch, Appellant pro-se, in the above-styled action, hereby appeals to The Georgia Supreme Court from the erroneous order issued by This Court on October 30, 2014 affirming the Appellant's malicious conviction, sentence, and denial of his Motion for New Trial by the Douglas county Superior Court. Therefore, the Appellant having been granted certiorari hereby appeals to The Georgia Supreme Court.

The Appellant hereby moves this Honorable Court's Clerk to:

- (1) Forward all Records, Documents, Trial Transcripts, and Related Materials to the Clerk of The Georgia Supreme Court, and;
- (2) That the clerk shall not omit any part of the record, including all Hearing Transcripts, all Motions filed in and Orders issued by This Court, and any and all audio, video and picture discs (See Motion to Supplement Record filed with This Court on April 18, 2014; Order granting said Motion filed May 2, 2014).

Respectfully submitted,



Bennie Lee Lynch

G.D.C. # 1039824

Johnson State Prison, Unit L4

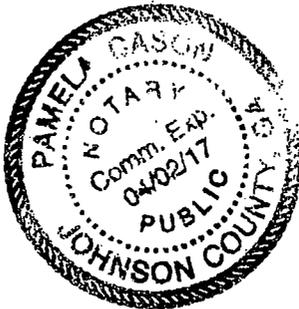
290 Harrison Donovan Road

P. O. Box 344

Wrightsville, Georgia 31096

Sworn to and subscribed before me

This 3RD day of December, 20 14



Certificate of Service

This is to certify that I have this day served a true and correct copy of the within and foregoing document upon the parties listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to below addresses.

Stephen Caslen
Clerk, Court of Appeals
Of the State of Georgia
Suite 501
47 Trinity Avenue, S.W.
Atlanta, Georgia
30334

Brian Fortner, acting D.A.
David McDade,
District Attorney
Douglas County Courthouse
8700 Hospital Drive
Douglasville, Georgia
30134

This 3RD day of December, 2014

Respectfully submitted

Bennie Lee Lynch
Bennie Lee Lynch, Pro-se
GDC # 1039824
Johnson State Prison L4
290 Harrison Donovan Rd
P.O. Box 344
Wrightsville, Ga. 31096



Court of Appeals of Georgia

December 9, 2014

TO: Mr. Booker Terrell Moore, Jr., GDC1001129202, Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

RE: **Booker Terrell Moore, Jr. v. The State**

CASE STATUS - DISPOSED

- The referenced appeal was _____ on _____. The remittitur issued on _____, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

CASE STATUS - PENDING

- The above referenced appeal is in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____.

APPOINTMENT OF COUNSEL

- 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.**

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 from the order of which you are appealing. Also, pursuant to Rule 1(a), a 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.

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

(1)

SUPERIOR COURT

State of GA

OF

GD# 1001129.

VS

HENRY County

CASE # 77761

Booker Terrell Moore, Jr.

"Extraordinary Motion For New Trial"

Now Comes, Booker Terrell Moore, Jr. defendant in said case, and moves that he be granted a new trial and shows that he has, since the rendition of the verdict of guilty in said case, discovered material evidence, not merely cumulative or impeaching in its character, but relating to new and material facts, which will authorize and require that he be granted a new trial since it was not due to any want of diligence of the defense that the evidence was not acquired sooner and said evidence is so material that it would probably produce a different result. Attachment (1)

That a copy of the Affidavit of Pauperus is attached hereto.

This _____ day of _____, 2014

(SEH)

X / (NOTARY)

Booker T. Moore, Jr.

(2)

" EXTRAORDINARY EVIDENCE FOR NEW TRIAL "

① INEFFECTIVE COUNSEL

② FAILURE TO ALLOW DEFENDANT A BOND BEFORE TRIAL TO PREPARE FOR CASE

③ FAILURE TO SEEK SELF DEFENSE ALIBI

④ FAILURE OF THE COURTS TO PROVIDE, MATERIAL, TRANSCRIPTS, TAPES AND REPORTS OF THE TRIAL BY COURT REPORTER OR DA'S OFFICE AFTER SEVERAL REQUEST!

⑤ FAILURE TO DISMISS JURY AFTER A POTENTIAL JUROR MAKES A BIAS STATEMENT DURING VOIR-DEB!

⑥ PROVOCATION DEFENSE FAILURE!

⑦ FAILURE TO INVESTIGATE EVIDENCE FROM SCHOOL THAT REFLECTS THE NEED TO KNOW WHY MRS. MOORE WOULD NOT RESPOND TO CALLS AND ATTEMPTS TO CONTACT A PARENT OF SON MATTHEW MOORE.

⑧ Mitigating Evidence / FAILURE TO PRODUCE TRANSCRIPT OF TRIAL

⑨ SELF DEFENSE RULE PER PRINCIPALS OF SCHOOLS CALL EARLY REGARDING ISSUE ABOUT SON, MATTHEW MOORE -

⑩ Motion to SUPPRESS #11 TAPES CONVERSATION "CONVERSATION BETWEEN HUSBAND AND WIFE IN PRIVATE CONVERSATION."

IN the United States

District Court of Appeal
11th District

Case # 100119902

vs

Booker Terrell Moore Jr.

Motion For Appointment of Counsel

Am. Pursuant to 28 U.S.C. § 1915(e)(2)

Booker Terrell Moore Jr., moves for the order

appointing Applicant Counsel to represent him

in this case. In support of this motion,

Plaintiff states,

① Plaintiff is unable to afford counsel.

He has requested leave to proceed in forma

pauperis.

② Plaintiff's impairment will greatly

limit his ability to litigate. The voice mailer

in this case are complex and will require

significant research and investigation.

Plaintiff has limited access to the

law library and limited knowledge of the

law. (A) Many bills from the judge. (B)

The failure of counsel to make application

for a new trial. (C) The Superior Court

Judges failure to hear the case for

Mr. Eckhardt's Motion for Case ①

The continuous conflict of interest

of the same Superior Court Judge accepting my divorce application and denying the application for no apparent reason.

(3) A trial in this case will likely involve conflicting testimony, and counsel would better enable plaintiff to present evidence and cross examine witnesses.

Transcript will reveal that no testimony was given by alleged victims while under oath that a gun was pointed at them by defendant at any time while in the defendant's own house.

(4) Defendant possessed several alibis for defense that were never presented by counsel nor considered by the trial judge as a preserve right for consideration.

(A) Provocation -

(B) Self defense -

(5) Plaintiff has a limited time based on the mandated request of the Superior Court Judge to change jurisdiction for lack of speedy response.

Attached to motions are:

(A) Superior Court Judge's RECUSAL

(B) " " " DENIAL

(C) " " " " "

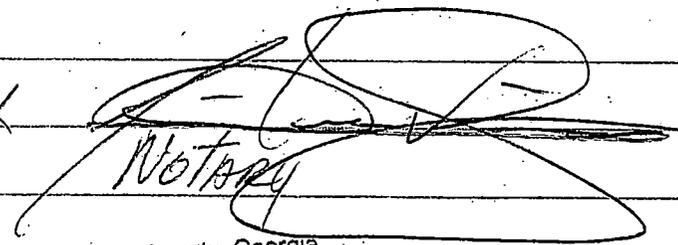
Wherefore, Plaintiffs request that
the Court appoint
A MEMBER of the
BAR, AS COUNSEL in this case.

Date 11-26-14

X Booker T. Moore, Jr
(Signature)

X P.O. Box #650 Nicholls, GA
(Address) 31554

November this 26th 2014 of

X 
Notary

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

SEA

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 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)

Clerk Court of Appeals
State of Ga
47 TRINITY AVE
STE. # 501
ATLANTA, GA
30334

Georgia Public Defender Council
104 Marietta St NW
STE 200
ATLANTA, GA
30303

This _____ Day of _____, 20____

Document(s) Included:

1) Office of Attorney General
ATTORNEY GENERAL
40 Capital Square SW
Atlanta GA
30334

Southern Center for Human Rights
83 Poplar St NW
Atlanta, GA
30303

Respectfully submitted,
Booker T. Moore, Jr.
Pro Se
Signature Booker T. Moore, Jr.
Print: Booker T. Moore, Jr.
GDC#: 1001129202
Address: P.O. Box # 650
Nicholls, GA
30554

FILED IN OFFICE
HENRY COUNTY
SUPERIOR COURT

OCT 14 2014

Barbara A. Harrison
CLERK OF SUPERIOR COURT

IN THE SUPERIOR COURT OF HENRY COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)
)
vs.)
)
BOOKER TERRELL MOORE, JR.,)
)
)
Defendant.)
_____)

CRIMINAL ACTION FILE

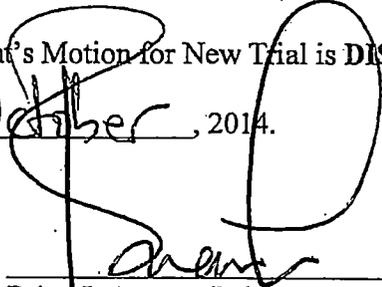
NO.: 2013-SU-CR-179-BA

ORDER

On August 14, 2013, a jury returned a verdict of guilty against the Defendant in the above-styled case. The Defendant filed a Motion for New Trial on September 24, 2014. In his motion, Defendant seeks a new trial based on the August 14, 2013 judgment. Pursuant to O.C.G.A. § 5-5-40, "All motions for new trial, except in extraordinary cases, shall be made within 30 days of the entry of the judgment on the verdict or entry of the judgment where the case was tried without a jury." Inasmuch as the Motion for New Trial in this case falls outside of the 30 day time period, the Court is without jurisdiction to entertain the motion. Therefore, having considered the motion and the record as a whole,

IT IS HEREBY ORDERED that Defendant's Motion for New Trial is **DISMISSED**.

SO ORDERED this 13th day of October, 2014.



Brian J. Amero, Judge
Superior Court of Henry County
Flint Judicial Circuit

IN THE SUPERIOR COURT OF HENRY COUNTY
STATE OF GEORGIA

FILED IN OFFICE
HENRY COUNTY
SUPERIOR COURT

DEC 17 2013

Barbara A. Harrison
CLERK OF SUPERIOR COURT

CIVIL ACTION FILE
NO.: _____

BOOKER TERRELL MOORE, JR.,

Plaintiff,

vs.

JACQUELINE D. MOORE

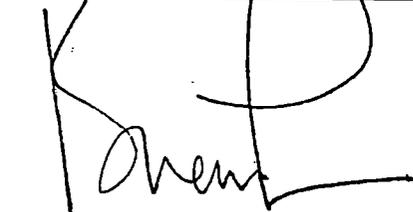
Defendant.

*
*
*
*
*
*
*
*

ORDER ON PLAINTIFF'S MOTION TO PROCEED IN FORMA PAUPERIS

The Plaintiff, Booker Terrell Moore, Jr., has submitted an Affidavit of Poverty, requesting to proceed in *forma pauperis* in his Petition for Divorce. The Court, having reviewed the relevant facts and argument, and finding that the Plaintiff did not follow the Prison Litigation Reform Act as codified in O.C.G.A. §§ 42-12-1 thru 42-12-7, does hereby rule that the request to proceed in *forma pauperis* be **DENIED**. Notice is hereby given that this civil action will be dismissed without prejudice if the filing fees are not paid within 30 days of the date of this order.

SO ORDERED this 16th day of December, 2013.



Judge Brian J. Amero
Superior Court of Henry County
Flint Judicial Circuit

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2014 DEC -8 PM 3:20

United States Court of Appeals 11th District

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA
State of GA

vs

Booker Terrell Moore, Jr.

Gdc: 1001129202

Motion to appointment of Counsel

In pursuance to 28 USC 1915(e)(1) Booker Terrell Moore, Jr. moves for an order appointing Appellant counsel to represent him in this case. In support of this motion Plaintiff States the following:

- 1) Plaintiff is unable to afford counsel. He has requested leave to proceed in Forma Pauperis.
- 2) Plaintiff's imprisonment will greatly limit his ability to litigate. The issues involved in this case are complex and will require significant research and investigation. Plaintiff has limited knowledge of the law.
 - Issues are as following:
 - A) Many bias from the Judges rulings
 - B) The failure of counsel to make application for a new trial.
 - C) The Superior Courts Judge failure to hear the extraordinary motion nor case.
 - D) The continues conflict of interest of the same judge in accepting plaintiffs divorce application. (and denying the application for no apparent reason).
- 3) Atrial conflicting testimony during the voir dire and counsel would better enable plaintiff to present evidence and cross examine witnesses.

Transcript will reveal that no testimony was given by alleged victims while under oath that a gun was pointed at them by the defendant at any time while the defendant was in his own house.

(4) Court reporter and Court clerk refused to provide court transcript after several request.

(5) Defendant possessed several alibis for defense that were never presented by counsel for presentation by counsel by the trial judge as a preserved right for consideration.

a0 Provocation

(b) Self Defense

(6) Plaintiff has a limited time based on the mandated request of the Superior Court Judge to change jurisdiction for lack of Speedy Response.

Attached to Motions are the following:

A) Superior Court Judges Recusal

B0 Superior Court Judges Trial Denial

Wherefore, Plaintiff request that the courts appoint a appellate attorney, a member of the Bar ,Pro Bono as counsel to the above styled case.

Date _____

(Plaintiff.)

(address)

This ____ 2014 of _____

Notary

Seal _____

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

Date: December 10, 2014

To: Julie Oinonen, Esq., Williams Oinonen LLC, 44 Broad Street, Suite 200, Atlanta, Georgia 30303

Docket Number: A15A0401 **Style:** Gilda Day v. Floyd County Local Board of Education

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

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

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

Date: December 10, 2014

To: Keith B. Rose, Esq., The Rose Law Firm, PLLC, 400 Galleria Parkway • Suite 1500, Atlanta, Georgia 30339

Docket Number: A15A0562 **Style:** Steve Eagleton v. Malibu Boat's 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 **Your pauper's affidavit should be notarized by a notary public.**
2. A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4. No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5. Your Certificate of Service did not include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6. There were an insufficient number of copies of your document. Rule 6.
7. Your document exceeds page limits. Rules 24 (f) and 27 (a)
8. Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9. Letter briefs and letter cites are not permitted. Rule 27 (b)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12. Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13. The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14. Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15. Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17. The Motion to Supplement has not been granted.
18. Other: **The Appellee's Brief is premature, the Appellant's Brief has not been filed in this Court yet.**

RECEIVED IN OFFICE
2014 DEC 10 AM 10:38
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS
STATE OF GEORGIA

STEVE EAGLETON,)
)
 Appellant/Plaintiff,)
)
 v.)
)
 MALIBU BOATS, INC.,)
)
 Appellee/Defendant)

CASE NO.: A15A0562

APPEAL FROM THE ORDER OF THE SUPERIOR COURT

BRIEF FOR THE DEFENDANT-APPELLEE MALIBU BOATS, LLC

This 9th day of December, 2014.



Keith B. Rose, Esq.
THE ROSE LAW FIRM, PLLC
Georgia Bar No.: 141269
Attorneys for Defendant/Appellee
Malibu Boats LLC,
s/h/a Malibu Boats, Inc.
400 Galleria Parkway, Suite 1500
Atlanta, Georgia 30339
(678) 385-5956

501 NEW KARNER RD. / ALBANY, NY 12205
518-869-9200 / FAX: 518-869-3334

**THE ROSE
LAW FIRM,
PLLC**

(A NEW YORK PROFESSIONAL LIMITED LIABILITY COMPANY)

KEITH B. ROSE
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NY, NJ, MA, WV, PA

December 9, 2014

VIA OVERNIGHT MAIL

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

Re: Steve Eagleton v. Malibu Boats, Inc.
Appeal Case No.: A15A0562

Dear Sir or Madam:

Enclosed is the original and two copies of the Brief for the Defendant-Appellee Malibu Boats, LLC in reference to the above-captioned matter.

Please date-stamp the enclosed copy of the certificate of service as proof of filing and return it in the self-addressed, stamped envelope enclosed.

Should you have any questions, please contact me.

Very truly yours,



Keith B. Rose

KBR/lab
Enclosures

\\SERVER\Vol1\Data\Malibu Boats, LLC\28426\Correspondence\Appeals Court- Filing Brief.doc

RECEIVED IN OFFICE
2014 DEC 10 AM 10 38
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 10, 2014

To: Mr. Hoke Thomas, Thomas Brothers Hydro, Inc., P.O. Box 2040, 115 Snapping Shoals Road, Covington, Georgia 30015

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 comments/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.
- Your Notice of Appeal did not include a Certificate of Service or does not include a proper 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.
- 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.
- Your correspondence was addressed to Ms. Holly K.O. Sparrow who retired in August, 2013. The new Clerk of the Court of Appeals of Georgia is Stephen E. Castlen.

RECEIVED IN OFFICE
2014 DEC 29 PM 3:56
LETTERS
COURT OF SUPERIOR
JUDICIAL
STRATTON

INCORRECT DECISION
MADE BY THE
HENRY COUNTY SUPERIOR AND GEORGIA APPEALS COURTS
REGARDING
THE OWNERSHIP OF NON-TAXABLE, NON-NAVIGABLE RIVERBED
AS SAID COURTS USED INCORRECT INFORMATION
SUPPLIED BY THE PLAINTIFF'S ATTORNEYS
IN THE FRAUDULENTLY INITIATED LAWSUIT
The Henry County Water and Sewerage Authority
Vs
Thomas Brothers
No. 2008-SU-CV-2714W
(Years 2008 thru 2011)

*However, **private** ownership of non-taxable, stand-alone property is not legal within the 159 counties of the State of Georgia and perhaps in all 50 states. The HCWSA and all other county government agencies are not required to pay county property taxes; but when purchasing property, said property must be legally owned by the Grantor; in the case of J.M. Hanger, said Hanger did not and could not own the non-taxable Riverbed without also owning the attached taxable contiguous dry land property owned by 10 other individuals, and selling all of said Riverbed and associated water rights to the HCWSA without proof of ownership is totally illegal. **In fact, due to the monetary value of said property, it is a felony.** The question remains, was this mail-order quitclaim sale a function of J.M. Hanger at his own discretion, or was said Riverbed sale a fraudulent gesture by said SWB law firm? **Who is liable, J.M. Hanger or said Hanger's SWB pro bono attorney/attorneys?***

On behalf of SWB's two clients, J.M. Hanger and the Henry County Water and Sewerage Authority, (HCWSA), the Henry County Superior Court Judge overruled OCGA44-8-2 and made the ruling that such a separation of non-taxable riverbed and water rights, from the taxable contiguous dry land, is legal; *for if it were not legal to separate the two, then WDCCL was in error by previously doing the same thing some 44 years previously.*

Conversely, according to OCGA44-8-2, WDCCL should have sold the riverbed, to the centerline of the non-navigable South River, along with the contiguous dry land attached property to each respective property owner as said WDCCL sold off the entire 160 acres and inclusive riverbed in both Henry and Newton Counties. That means, according to OCGA44-8-2 and the SWB law firm, that J.M. Hanger did have an error in his 1991 deed, for said WDCCL deed did not give said Hanger, or the other 10 Grantees any riverbed. But if Hanger is due riverbed, then so are the other 10 contiguous property owners, including Thomas Brothers, and once again the Henry County Superior Court Judge along with the Georgia Appeals court made an incorrect judgment by granting all 20.4 acres of the Snapping Shoals Riverbed belonging to 11 different property owners, only to J.M. Hanger based on the SWB mail-order quitclaim, from the Whitehead heirs, for said Hanger. *According to OCGA44-8-2, the 13 Whitehead heirs had nothing to quitclaim to anyone. The courts will have to reverse their erroneous judgment.*

PINDAR OVERRULES OCGA44-8-2?

But pursuant to the Real Estate Code, seventh edition, as written by Pindar, if OCGA44-8-2 can be overruled by two specific recorded deeds and plats separating the taxable dry land from the contiguous non-taxable riverbed, overruled as the

Henry County Superior Court Judge did so in June of 2011 and WDCCL did so 44 years ago, then the SWB law firm was “correct” in fraudulently quitclaiming the 20.4 acres of riverbed for J.M. Hanger as said law firm committed “theft by deception” by tricking the WDCCL heirs or owners of said riverbed into signing a bogus, mail-order, unfunded quitclaim for J.M. Hanger in 2008 retroactive back to 1991, transferring ownership of said 20.4 acres of non-taxable riverbed from said heirs to J.M. Hanger. After foolishly signing the SWB authored mail-order quitclaim, the innocent Whitehead heirs never “heard from” the SWB attorneys again. In fact, it was Hoke Thomas that personally informed said heirs of their loss of the 20.4 acres of riverbed properties. *The end result equates to the fact that ownership of the water rights in a non-navigable, non-property taxable riverbed, is only a quitclaim away, regardless of the authenticity or legality of said quitclaim and owning the non-taxable riverbed without owning the attached, contiguous dry land property gives the riverbed owner, ownership of the water rights within the non-navigable river. Such a ruling will create a stampede of quitclaims for the thousands of miles of non-navigable Riverbed and associated water rights, contained within the State of Georgia. Is it legal for the Georgia Real Estate Code to overrule a State Statute?*

OCGA44-8-2 IS A STATE OF GEORGIA STATUTE

In conclusion, according to attorney Ward Stone, pursuant to OCGA44-8-2, J.M. Hanger does own the riverbed contiguous to his 89.2 dry Henry County acres purchased from WDCCL in 1991, but for Hanger to sell the riverbed to the HCWSA, he must also, simultaneously sell his 89.2 acres. **This was not the SWB plan for Hanger, for the SWB attorneys have already sold the quitclaimed Riverbed attached to Hanger’s 89.2 acres to the HCWSA 21 days prior to said quitclaim being recorded, and presently, according to SWB attorney White, in Henry County Superior Court, are in the process of separately selling Hanger’s 89.2 acres to Henry County, at an undisclosed price, for a water treatment plant . Lastly, pursuant to OCGA44-8-2, Hanger does not own, nor can said Hanger sell the quitclaimed 20.4 acres of riverbed belonging to the other 11 Grantees, for Hanger to sell said 20.4 acres of riverbed to the HCWSA, implies that Hanger must also own the contiguous dry land property attached to the 20.4 acres of riverbed, of which Hanger does not.**

Past deeds & plats issued by WDCCL as Grantors to 11 different Grantees

If the past WDCCL deeds and the Real Estate Code by Pindar is correct and separation of the non-taxable riverbed and associated water rights from the contiguous taxable dry land property is legal, then via “theft by deception”, the SWB law firm successfully “tricked” the 13 innocent WDCCL heirs into

quitclaiming, to J.M. Hanger, said heirs 20.4 acres of inherited riverbed and associated water rights, which were passed on to the HCWSA by the astute SWB attorneys. But the “fly in the ointment” for Hanger are the facts that said mail-order quitclaim was unfunded without the required monetary consideration, bogus due to excessive property quitclaimed that WDCCL never owned and therefore worthless; and both Hanger and the HCWSA were indeed, not bona fide or innocent purchasers. *Without a valid quitclaim, the Henry County taxpayer funded lawsuit created by private SWB attorneys against the Thomas Brothers must be declared null and void and all the quitclaimed property returned to the rightful owners.*

FIRST AMENDMENT RIGHTS

In conclusion, both the Henry County Superior and Georgia Appeals Courts, based on the information presented to both courts by the SWB law firm, overruled OCGA44-8-2 and said courts opted for the past deeds & plats issued by WDCCL as Grantors to 11 different Grantees. In doing so, the year 2011 Henry County Superior and the Georgia Appeals Court’s rulings are in conflict with the civil and property rights guaranteed all citizens under the first amendment to the U. S. Constitution. Thomas Brothers suggests, the only method to solve these water rights issues is for the federal government, not the county or state governments to assume ownership of all the non-navigable, non-taxable riverbeds in all 50 states, as is presently the case with all navigable waters; such an arrangement would negate any water rights “take-over” by attorneys with deep rooted political ties and having personal monetary goals with a “sack full of” mail-order quitclaim deeds.

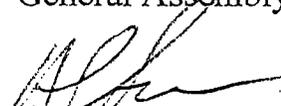
Pursuant to my (Hoke Thomas) recently acquired knowledge of property laws, I (Hoke) suggest that there are 2 possible solutions to the property and natural resource scam created by the SWB attorneys at Snapping Shoals:

1. Attorney Ward Stone is correct with his evaluation of OCGA44-8-2, J.M. Hanger, Thomas Brothers and the remaining 9 property owners all “get back” ownership of their respective non-taxable contiguous Riverbed, as attached to the taxable dry land property. The February 11, 2008 mail-order quitclaim, created pro bono by SWB attorneys for J.M. Hanger and signed by the deceived Whitehead heirs is “worthless”, for according to OCGA 44-8-2, said heirs had nothing to quitclaim.
2. As far back as 1964, when WDCCL began selling off properties from within the aforementioned 160 acres, WDCCL only deeded contiguous Riverbed to the Thomas Brothers, all others were sold property only to the high water mark on the bank of the South River. In essence, 44 years ago, WDCCL did what SWB attorneys have done in year 2008 with their “less and except” method of acquiring

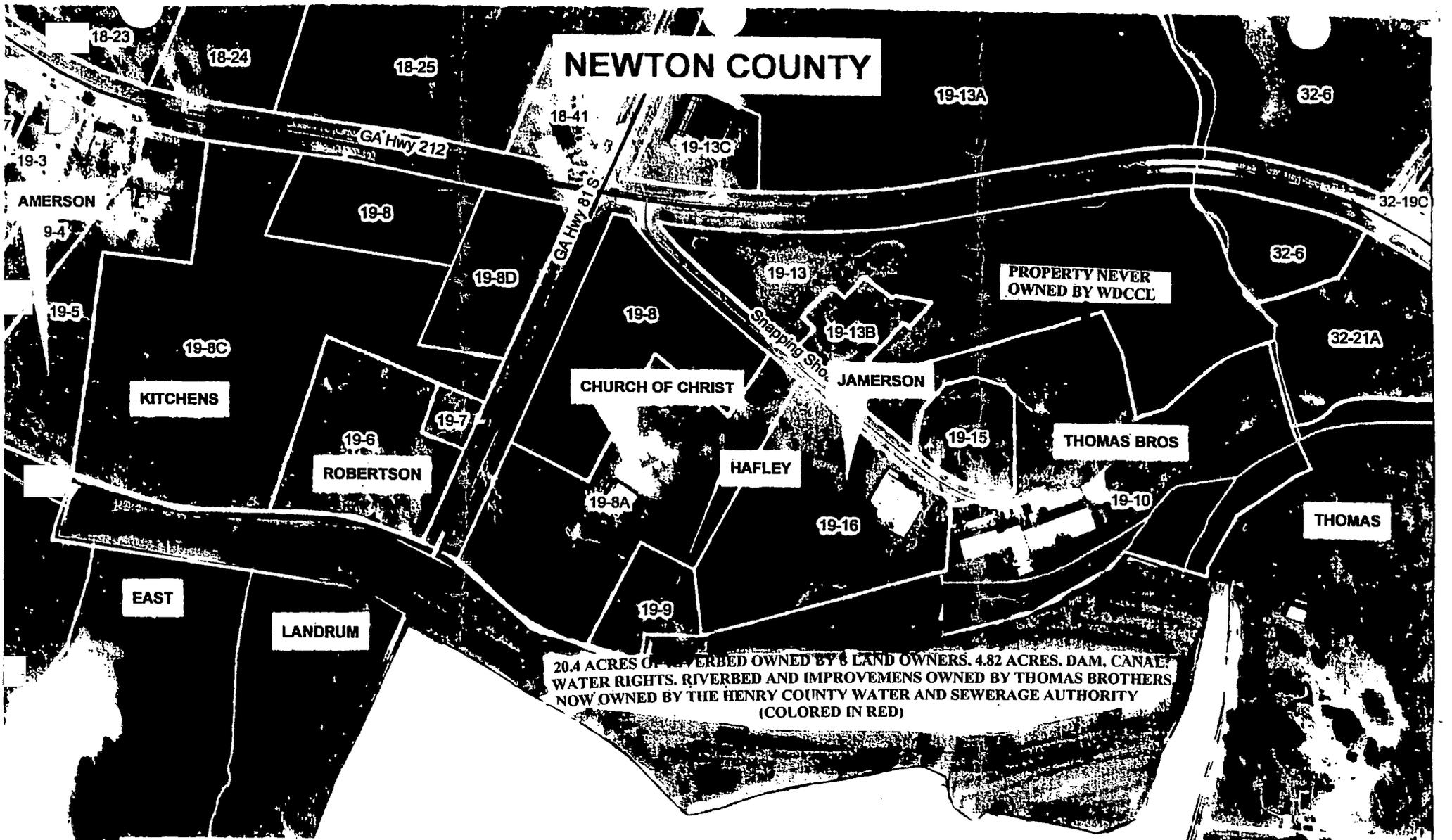
property. Claim it all, "less & except" what you do not intend to purchase or sell. Beginning in 1964 WDCCL owned the 160 acres of Riverbed and contiguous dry land properties, but sold only the taxable dry land properties, leaving or "less and excepting" ownership of 20.4 acres of non-taxable Riverbed for WDCCL's use or later, the heirs of said WDCCL. But no one informed the heirs of such an arrangement. However, according to the County Tax Assessor such an arrangement as creating private ownership of non-taxable property creates a BIG problem and is illegal; here is why:

1. Thomas Brothers has paid county property taxes on their two purchases of dry land and contiguous Riverbed from WDCCL for the past 34 years.
2. J.M. Hanger has paid county property taxes on his one purchase of 89.2 acres of dry land, no contiguous Riverbed from WDCCL for the past 18 years.
3. *After selling off each parcel of dry taxable land by 1991, WDCCL paid no more property taxes on the remaining 20.4 acres of non-taxable Riverbed for the past 44 years since 1964, but obviously claimed ownership of said non-taxable Riverbed.*
4. *The 13 Whitehead heirs have never paid property taxes on the 20.4 acres of non-taxable Riverbed or any contiguous dry land property at Snapping Shoals and were not aware of the fact that said riverbed property was "maybe" unknown inheritance, having no separately recorded deed, from their grandfather's 1994 dissolved WDCCL Company.*

Solution: According to the aforementioned Tax Assessor's office and Pindar's Georgia Real Estate Law and Procedure, Seventh Edition, personal ownership of non-taxable properties is not legal, when WDCCL made the separation of taxable dry land and contiguous non-taxable Riverbed, without a specific recorded deed to do so for each separate part, said separation was illegal and violated OCGA44-8-2 and although WDCCL "thought" their method of protecting the Snapping Shoals water rights was successful and legal, it was not; for the one combined parcel of dry land and contiguous Riverbed remained "intact" and taxable as a whole, not two separate parts, one taxable and the other not, and OCGA 44-8-2 prevailed. Therefore, the SWB plan of having the 13 innocent Whitehead heirs to sign a mail-order quitclaim for said SWB's pro bono client J.M. Hanger was a waste of time, effort and Henry County taxpayer monies, for said Whitehead heirs had absolutely nothing to quitclaim to J.M. Hanger. If this is not the case, then the Georgia General Assembly needs to take OCGA44-8-2 "off the books". Case closed.


Hoke Thomas

NEWTON COUNTY



PROPERTY NEVER OWNED BY WDCCL

20.4 ACRES OF RIVERBED OWNED BY 6 LAND OWNERS. 4.82 ACRES, DAM, CANAL, WATER RIGHTS, RIVERBED AND IMPROVEMENS OWNED BY THOMAS BROTHERS NOW OWNED BY THE HENRY COUNTY WATER AND SEWERAGE AUTHORITY (COLORED IN RED)

HENRY COUNTY

J.M. HANGER KEEPS HIS 89.2 DRY HENRY COUNTY ACRES AND SELLS HIS NEIGHBOR'S PROPERTIES TO THE HENRY COUNTY WATER AND SEWERAGE AUTHORITY

PLAT #4- J.M. HANGER RETAINS HIS 89.2 ACRES AND SELLS HIS NEIGHBORS PROPERTIES, RIVERBED, DAM, WATER RIGHTS AND IMPROVEMENTS TO THE HENRY COUNTY WATER AND SEWERAGE AUTHORITY ON MARCH 10, 2008 FOR \$25,000.00

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 11, 2014

To: Mr. Willie Mizell, GDC276284 A-103, Georgia Diagnostic and Classification Center,
State Prison, Post Office Box 3877, Jackson, Georgia 30233

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

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

A request for an out-of-time appeal should be made to the trial court from which you are appealing. If a motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

If you are intending to place a complaint against an attorney, you may want to contact the Georgia State Bar, 104 Marietta Street, N.W., Atlanta, Georgia 30303.

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

Case # 035611857

To whom it may concern:

RECEIVED IN OFFICE
JAN DEC 10 PM 3:59
CLERK/COURT REPORTER
COURT OF APPEALS

This complaint is against my attorney
Brian A. Hobbs. Bar # 358131 He is from
Fulton Co. Public Defenders office. My name
is Willie James Mizell. My GDC # 276284. I
can trying to get another trial due to inefficiency
of council. These are my reasons.

1.) He allowed D.A. Datcher to use five people to

testify for the state. The first witness was Stanley

Breezy. He was asked to recall his testimony from

the first trial nine years prior. When he stated he

couldn't recall his testimony, he was read the trans-

cripts in front of the jury and asked again if he

recalled his testimony Mr. Breezy stated that he had

received trauma to his head and could recall nothing.

2.) The second witness was miss Donna Summers. She

also couldn't recall what she testified to in 2005.

D.A. Datcher again read from the transcripts from

2005 in front of the jury. The same occurred

with witness Willie Lynch. This should have con-

stituted a mistrial. This was repeated with the

Thess named Larry as well as Africa.

The only objection he made was the questioning

miss Donna Summer. He asked the judge for a

which the judge denied. D.A. Datcher stated

and that he was wrong for using past

records in the new trial.

4.) My lawyer also allowed the state to use D.N.A. evidence that was never tested by the defense or the state. D.A. Dutcher admitted during trial that the evidence was never tested. This happened in the jury trial of 2014. The following is a list of illegal evidence used against me in my trial.

1. one pair of ashy black jeans.
2. one pair of beige slacks
3. one brown and beige jacket
4. one pink sheet
5. one rust colored towel
6. one pink face towel
7. one blue face towel
8. one pair of size 13 bedroom shoes (blue)
9. one pair of size 8 air force one tennis shoes
10. one pair of white womens tennis shoes (no name)
11. one red and black bra
12. one black and grey pocket book

5.) My lawyer didn't object to anything the state did to violate my rights. My attorney also violated my rights by sending the witness Miss Sheron back home. Mr. Hobbs said that I didn't need her. The witness of Homicide Detective Calhoun was my witness that in her presence during the time of the trial I informed Mr. Hobbs about this, and he said that he couldn't locate her. Mr. Hobbs knew that the witness was related to Detective Calhoun. He did

Share this information with D.A. Dutcher. It would have greatly hurt the state's case if I was allowed to have that witness questioned.

6) I asked Mr. Hobbs if he would subpoena the people at the FBI crime lab to testify that the evidence results did not point to my D.N.F. He told me to do this on a spec. Mr. Hobbs was working more closely with the prosecution than with me. 7) I requested Mr. Hobbs to bring up the states witnesses and question them about their criminal records. He refused. I also asked him to bring up the test D.N.F. from 2014.

8) The judge issued for the cigarette butts found in dumpster 4. I let Mr. Hobbs know that all of this is in the motion for a new trial transcript. I also told him about a second set of cigarette butts found in my ashtray. One tested positive for my D.N.F. and one tested positive for mine and the victims D.N.F. Another turned up no results for D.N.F. The victim and I had previously shared a cigarette. Two of the cigarettes butts dispersed from evidence. All others from my ashtray were placed in individual bags. They were labeled "Doral cigarette from Zell's ashtray". Package #4 was a piece of a wip paper instead of the cigarette butt. #11 no #5 line I think the crime no incase #4.

Package #5 contained a carpet fiber instead of a cigarette butt.

9.) The G.B.I came to court in 2010 and testified to what was in the packages. All of this took place at my motion for a new trial. It's all in the transcripts. Mr. Hobbs refused to try and help me at all. My records will show that there is an inefficiency of counsel.

All I'm asking for is a fair trial and to be represented by an attorney that has my best interest in mind. I asked Mr. Hobbs why Det. Velazquez did not fingerprint to put Stanley Breezy in the apartment he said to wait on appeal.

Georgia Court of appeals

Willie James Mizell
GDC# 276284-A-103

Fulton Co. Superior Court
Judge Robert McBurney
Courtroom 5C
Atlanta, Ga 30303

GDCP
P.O. Box 3877
Jackson, Ga 30233
Willie Mizell
12/16/2014

John A. Young Jr
CE 7/4/2016





Court of Appeals of Georgia

December 12, 2014

TO: Mr. Jerry Martin, GDC169516, Washington State Prison, Post Office Box 206,
Davisboro, Georgia 31018

RE: A14D0055. Jerry Dwayne Martin v. The State

REQUEST FOR COPIES

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

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

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

REQUEST FOR FORMS

- This Court does not have the forms you requested.

COURT RULES

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

APPOINTMENT OF COUNSEL

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing. This Court cannot appoint counsel for you.

RECEIVED IN OFFICE

2014 DEC 10 PM 3:54

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

To: Georgia Court of Appeals
47 Trinity Avenue
Atlanta, Ga. 30304

From JERRY MARTIN @

G.A. CH # 169516

Washington State Prison
P.O. Box 206

Davisboro, Ga. 31018

Approx June 2013, I had Filed an Discretionary Appeal
of Which was denied Because I could not meet the
30-day time. This Because of Both the Trial Court and
Because of Lock Down here, where we were denied Access
to Law Library and Not Given our indigent Supplies.
Also I Sent you a Copy of My Callout where I received
the Courts reply (Trial) also a Statement From the then
Librarian - Mr. Mommert, stating that the Supplies were
Not Given me for three week, then it was two more weeks
before I could get the Statement From him to Send you.
Thereby excusing myself of the over delay, Since I'm Now
in Fed. Court 42 USCS 1983 because these issues, please
send me a Copy of the Date Filed, Date denied because
of this and a Copy of the Exhibits I Sent you, Along with
the day you received them.

Respectfully

Jerry Martin



Court of Appeals of Georgia

December 16, 2014

TO: Mr. Cleve L. Molette, 4552 Old Dixie Highway, #272, Forest Park, Georgia 30297

RE: **A15D0145. Cleve Lawrence Molette v. City of Forest Park, et al.**

CHECK RETURN

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

CASE STATUS - DISPOSED

- The referenced application was granted on December 3, 2014. No direct appeal has been filed as of today's date. There is nothing to append the "Notice to Court of Appeals of Georgia", therefore, the document is being returned to you.**

CASE STATUS - PENDING

- The above referenced appeal is in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

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

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

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

COURT OF APPEALS OF GEORGIA

CLEVE LAWRENCE MOLETTE, *

APPLICANT, *

v. *

CITY OF FOREST PARK, et al. *
Forest Park, Georgia *

RESPONDENTS, *

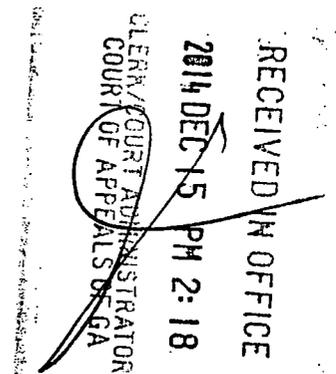
CASE NUMBER

A15D0145

NOTICE TO COURT OF APPEALS OF GEORGIA

1. This Notice is filed to inform the Court that the trial court entered an “Order Rescinding Dismissal of Complaint” on December 4, 2014 (attached) attempting to reopen the case below. Said order is void for the following reasons;

2. Court Orders are Amendable Only in The Same Term of Court. Georgia law states “It is well settled that ‘[a]lthough a trial judge has inherent power during the same term of court in which the judgment was rendered to . . . modify or vacate such judgment, this authority does not extend beyond the same term of court . . . (Citations and punctuation omitted.)” FED v. BUTLER et al., 327 Ga. App. 637, 638; 760 S.E.2d 642 (2014)



3. The Orders in Question were Entered in Different Terms of Court.

O.C.G.A. § 15-6-3(10) defines Clayton County terms of court as “3-month terms on the first Monday in February, May, August and November.”

The trial court’s “Order . . . Dismissing the Complaint Against Defendants” was entered October 13, 2014; in the “August” term of court. The attached order was entered December 4, 2014; in the “November” term of court. Therefore, the attached order is void.

4. Also, in the attached order the trial court alleged it did not rule on “Molette’s” Motion to Amend Proof of Service because it did not see the motion in the case file. But even if true, the court was again put on notice by “Molette’s” Objection to Failure to Rule on Motion to Amend Service of Process that he filed October 20, 2014; a full 45 days before it entered the attached order. So for all the reasons above, “Molette” prays that this Court order that the trial court not delay forwarding the record on appeal.

Respectfully Submitted

December 15, 2014



Cleve L Molette
4552 Old Dixie Hwy #272
Forest Park, Georgia 30297
404-587-7030
imtreyy@yahoo.com

COURT OF APPEALS OF GEORGIA

CLEVE LAWRENCE MOLETTE,

*

*

APPLICANT,

*

*

v.

*

CASE NUMBER

*

CITY OF FOREST PARK, et al.

*

A15D0145

Forest Park, Georgia

*

*

RESPONDENTS,

*

CERTIFICATE OF SERVICE

I certify that I have this day served the law firm of Fincher, Denmark, & Williams, LLC with a copy of this NOTICE TO THE COURT OF APPEALS OF GEORGIA by U.S. Postal Service first class mail to the following address:

Fincher, Denmark, & Williams
8024 Fair Oaks Court
Jonesboro, Georgia 30236

December 15, 2014



Cleve L Molette
4552 Old Dixie Hwy #272
Forest Park, Georgia 30297
404-587-7030
imtreyy@yahoo.com

COPY

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

FILED
CLAYTON COUNTY, GA

2014 DEC -4 AM 9:44

CLAYTON COUNTY
SUPERIOR COURT

CLEVE LAWRENCE MOLETTE,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF FOREST PARK, CHIEF L.)
 DWAYNE HOBBS, In his Official and)
 Individual Capacity, SERGEANT ERIK)
 KURTZ, In his Official and Individual)
 Capacity,)
)
 Defendants)

CASE NO.
2014 CV 00189-5

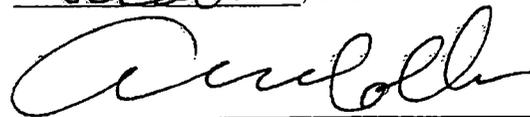
ORDER GRANTING LEAVE TO AMEND SERVICE AND RESCINDING DISMISSAL OF COMPLAINT

The above-styled case is presently before this Court on Plaintiff's Objection to Failure to Rule on Motion to Amend Service of Process, filed on October 20, 2014. Previously, the Plaintiff had filed proofs of service with this Court and filed a Motion for Leave to Amend Service. This Court did not see the Amended Service Motion in the file, and thus did not rule on the motion. This Court dismissed the complaint by Order on October 8, 2014, because of the Plaintiff's failure to perfect service.

The Court, realizing that it did not rule on the Motion for Leave to Amend Service of Process, now RESCINDS the Dismissal of the Complaint, but does not rescind the portion of that Order denying Plaintiff's Motion to Set Aside Judgment pertaining to the denial of Default Judgment.

Further, this Court GRANTS leave for Plaintiff's amendment of service and hereby recognizes the affidavits of service filed with the Clerk of Superior Court on April 10, 2014.

SO RULED THIS THE 3rd DAY OF December, 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 GRANTING LEAVE TO AMEND SERVICE AND RESCINDING DISMISSAL OF COMPLAINT, Case No. 2014-CV-00189-5, by mailing a copy of same with adequate postage affixed thereto to:

Cleve L. Molette
4552 Old Dixie Hwy., #272
Forest Park, GA 30297

Michael J. Williams, Esq.
FINCHER DENMARK WILLIAMS
& MINNIFIELD LLC
8024 Fair Oaks Court
Jonesboro, GA 30236

FILED
JAN 09, 2015
JONESBORO, GA

This 4TH day of December, 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

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

December 16, 2014

To: Mr. Michael Redford, Unit 3-C-3, Douglas County Jail, 8472 Earl D. Lee Boulevard, Douglasville, Georgia 30134

Docket Number: Style:

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: All Discretionary Applications you intend to file in this Court must be filed individually. Each under its own cover. The enclosed communication cannot be accepted with a handwritten Certificate of Immediate Review. I have enclosed a copy of the Rules of the Court of Appeals of Georgia for your review.**

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

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2014 DEC 19 PM 3:56

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF SA

Thanks

FILE AS DISCRETE TEMPORARY APPEAL

~~WILL BE MAILED SEPARATELY.~~
~~WAS NOT WANT TO SIGN IT.~~

CERTIFICATE OF IMMEDIATE REVIEW

IMD ~~AT JAMES~~ ROBERT J. JAMES

THIS IS DISQUALIFICATION OF

~~DOCKET NO:~~

THIS IS A NEW CASE NEW
FILE AS DISCRETE TEMPORARY APPEAL

IN THE GEORGIA COURT OF APPEALS

STATE RECEIVED IN OFFICE

2014 DEC -1 PM 3:50

MIKE REDFORD

APPELLANT

V.

STATE OF GEORGIA

APPELLEE

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

APPEAL CASE NO.

DOUGLAS COUNTY CASE NO. 14CR243

APPLICATION FOR APPELLATE REVIEW

MIKE REDFORD, APPLICANT, APPLIES TO THIS COURT AS FOLLOWS:

- 1) TO ISSUE AN ORDER GRANTING THE APPLICANT AN APPEAL FROM THE ORDER OF THE SUPERIOR COURT OF DOUGLAS COUNTY, HONORABLE ROBERT J. JAMES, PRESIDING, IN THE CASE STYLED MIKE REDFORD, APPELLANT V. STATE OF GEORGIA, APPELLEE, CASE NO. 14CR243, THIS ORDER FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE ROBERT J. JAMES HAVING HELD: THAT THE AFFIDAVIT LACKS LEGAL SUFFICIENCY.
- 2) THIS APPLICANT SHOWS THAT THE JURISDICTION IS PROPERLY IN THIS COURT BECAUSE GEORGIA COURT OF APPEALS HAS JURISDICTION IN PURSUANT TO O.C.G.A. 5-6-34(b) FOR INTERLOCUTORY REVIEW OF AN ORDER THAT IS OF SUCH IMPORTANCE TO THE CASE THAT IMMEDIATE REVIEW SHOULD BE HAD.
- 3) THIS APPLICATION OF APPEAL IS FILED WITHIN 10 DAYS OF THE GRANTING AND FILING OF THE CERTIFICATE OF IMMEDIATE REVIEW.
- 4) COPIES OF ALL PERTINENT DOCUMENTS HAVE BEEN ATTACHED TO THIS APPLICATION AS EXHIBITS "A" AND "B".
- 5) THE NEED FOR INTERLOCUTORY APPELLATE REVIEW IS FEDERAL CONSTITUTION REQUIRES THAT CRIMINAL DEFENDANT BE AFFORDED A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE. U.S.C.A. CONST. AMEND. 6; STATE V. PERKINS, 271 CONN. 218, 856 A.2d 917 (2004). DUE PROCESS VIOLATION, ESTES V. TEXAS 381 U.S. 532 (1965). A BIASED TRIBUNAL ALWAYS DEPRIVES THE ACCUSED OF A SUBSTANTIAL RIGHT. U.S.C.A. CONST. AMEND. 14, BARNEY V. CONWAY, 730 F. Supp. 2d 264 (N.D. N.Y. 2011). THE GUARANTEE OF A FAIR TRIAL IS NOT A BACKSTOP THAT INOCULATES ANY ERRORS IN THE PRETRIAL PROCESS. MISSOURI V. FRYE, 132 S.Ct. 1399 (2012).
- 6) APPLICANT SUBMITS THAT AN APPEAL SHOULD BE GRANTED BECAUSE EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE AND FUNDAMENTAL RIGHT TO A FAIR AND IMPARTIAL TRIAL. HOLBROOK V. FLYNN, 475 U.S. 560 (1986). A CRIMINAL DEFENDANT'S RIGHT TO A FAIR TRIAL IS PARAMOUNT. U.S. V. NI, 976 F. Supp. 417 (S.D. MISS. 1997). A CRIMINAL DEFENDANT POSSESS THE CONSTITUTIONAL RIGHT TO A FAIR OPPORTUNITY TO DEFEND AGAINST A STATE'S ACCUSATIONS. 21A ANN. JUR. 2d CRIMINAL LAW § 926

CERTIFICATE OF SERVICE
I HEREBY CERTIFY THAT I HAVE SEARCHED & TRUE COPY OF THIS APPLICATION TO IMAGE ROBERT J. JAMES, 8700 HOSPITAL DR. BOULDERVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL AND BOULDERVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL AND MS. ANNA. VAUGHAN, O.A.'S OFFICE, 8700 HOSPITAL DR. BOULDERVILLE, GA. 30134 MIKE REEFORD, JR. 1180
THIS 19 DAY OF NOVEMBER, 2014

APPLICANT RESPECTFULLY STATES THAT IF THIS HONORABLE COURT DECLINES THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE PERMITTED TO STAND, SUCH WOULD BE A MISCARriage OF JUSTICE BECAUSE A DENIAL OF THE TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW. 91A Am. Jur. 2d CRIMINAL LAW 996. MOREOVER WHERE A DEFENDANT HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED. PEOPLE V. EXUM, 54 CAL. 2D 498, 6 CAL. RPT. 753, 354 P.2D 925 (1960). DENIAL OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARriage OF JUSTICE, WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED. PEOPLE V. STERRO, 59 CAL. APP. 4TH 1168, 69 CAL. RPT. 2d 361 (4TH DIST. 1997). THEREFORE, APPLICANT PRAYS TO THE COURT OF APPEAL RESORT AND EQUITY TO GRANT HIS APPLICATION.
RESPECTFULLY SUBMITTED
MIKE REEFORD, JR. 1180
THIS 19 DAY OF NOVEMBER, 2014

IN THE SUPERIOR COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

FILED

V.

NOV 19 2014

INDICTMENT NO. 14CR243

MIKE REAFORD
DEFENDANT

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

CERTIFICATE OF IMMEDIATE REVIEW

THIS IS AN APPLICATION FOR CERTIFICATE OF IMMEDIATE REVIEW BY DEFENDANT MIKE REAFORD ON THE ORDER OF HONORABLE ROBERT J. JAMES, DOUGLAS COUNTY SUPERIOR COURT ISSUED OCTOBER 29, 2014 IN ALL MATTERS ARISING FROM THE PRETRIAL HEARING ON AUGUST 27, 2014 AND OCTOBER 22, 2014. DEFENDANT SEEKS INTERLOCUTORY REVIEW OF THE STATE'S HIGHER COURTS.

JURISDICTION IS BOTH IN THE GEORGIA COURT OF APPEALS AND SUPREME COURT OF GEORGIA TO REVIEW RESPECTIVELY NONCONSTITUTIONAL AND CONSTITUTIONAL CHALLENGES.

IT IS SO ORDERED AND ADJUDICATED THAT THE SAID ORDER BE ISSUED.

HONORABLE ROBERT J. JAMES
DOUGLAS COUNTY SUPERIOR COURT

THIS DAY OF 1 2014

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DECLINE THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE PERMITTED TO STAND, SUCH WOULD BE A MISCARRIAGE OF JUSTICE BECAUSE A DENIAL OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW. 21A AM. JUR. 2d CRIMINAL LAW 9926. MOREOVER, WHERE A DEFENDANT HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED. PEOPLE V. ELLIOT, 54 CAL. 2d 498, 6 CAL. RPTR. 753, 354 P. 2d 225 (1960). DENIAL OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARRIAGE OF JUSTICE WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED. PEOPLE V. SHERROD, 59 CAL. APP. 4TH 1168, 69 CAL. RPTR. 2d 361 (4TH DIST. 1997). WHEREFORE, APPELLANT PRAYS TO THIS COURT OF FINAL RESORT AND EQUITY TO GRANT HIS APPLICATION.

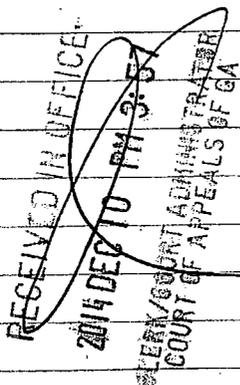
RESPECTFULLY SUBMITTED
MIKE REAFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED A TRUE COPY OF THIS APPLICATION TO JUDGE ROBERT J. JAMES, 8700 HOSPITAL DR. DOUGLASVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL AND MS. ARINA VAUGHAN, D.A'S OFFICE, 8700 HOSPITAL DR. DOUGLASVILLE, GA. 30134.
MIKE REAFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014



MIKE REAFORD
 APPELLANT
 v.
 STATE OF GEORGIA
 APPELLEE

RECEIVED IN OFFICE
 2014 DEC 10 PM 3:57
 CLERK/COUNTY ADMINISTRATOR
 COURTS OF APPEALS OF GA

Appert case no.
 DeKalb County case 14043

COURT OF APPEALS OF GEORGIA

Application for Appellate Review

MIKE REAFORD, APPELLANT, APPLIES TO THIS COURT AS FOLLOWS:

1) TO ISSUE AN ORDER GRANTING THE APPLICANT AN APPEAL FROM THE ORDER OF THE SUPERIOR COURT OF DEKALB COUNTY, HONORABLE ROBERT J. JAMES PRESIDING, IN THE CASE STYLED MIKE REAFORD, APPELLANT v. STATE OF GEORGIA, CASE NO. 14043, THIS ORDER FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE ROBERT J. JAMES HAVING HELD: THAT THE APPELLANT LACKS LEGAL SUFFICIENCY. THIS APPLICANT STATES THAT THE JURISDICTION IS PROPERLY IN THIS COURT BECAUSE GEORGIA COURT OF APPEALS HAS JURISDICTION IN PURSUANT TO O.C.G.A. 5-6-34(b) FOR INTERLOCUTORY REVIEW OF AN ORDER THAT IS OF SUCH IMPORTANCE TO THE CASE THAT IMMEDIATE REVIEW SHOULD BE HAD.

2) THIS APPLICATION OF APPEAL IS FILED WITHIN 10 DAYS OF THE GRANTING AND FILING OF THE CERTIFICATE OF IMMEDIATE REVIEW.

3) COPIES OF ALL PERTINENT DOCUMENTS HAVE BEEN ATTACHED TO THIS APPLICATION AS EXHIBITS "A" AND "B."

4) THE NEED FOR INTERLOCUTORY APPELLATE REVIEW IS REPORT CONSTITUTIONAL REQUIRES THAT CRIMINAL DEFENDANT BE AFFORDED A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE. 71 S.C.A. CONST. AMEND. 6; STATE V. PERKINS, 271 CONN. 218, 856 A.2d 917 (2007). BUT PROCESS VIOLATION SEE ESTES V. TEXAS, 381 U.S. 532 (1965). A BASED TRIBUNAL ALWAYS DEPRIVES THE ACCUSED OF A SUBSTANTIAL RIGHT. 71 S.C.A. CONST. AMEND. 14, BARNY V. COUNTRY, 730 F. SUPP. 2d 264 (N.D. N.Y. 2010). THE GUARANTEE OF A FAIR TRIAL IS NOT A BACKSTOP THAT INVOLUTES ANY ERRORS IN THE TRIAL PROCESS. MISSOURI V. FREY, 132 S. CT. 1391 (2013). APPLICANT SUBMITS THAT AN APPEAL SHOULD BE GRANTED BECAUSE EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE AND FUNDAMENTAL RIGHT TO A FAIR AND IMPARTIAL TRIAL. HALBROOK V. FLYNN, 475 U.S. 560 (1986). A CRIMINAL DEFENDANT'S RIGHT TO A FAIR TRIAL IS PARAMOUNT. 71 S.C.A. CONST. 976 F. SUPP. 417 (S.D. MISS. 1997). A CRIMINAL DEFENDANT POSSESS THE CONSTITUTIONAL RIGHT TO A FAIR OPPORTUNITY TO RETEND AGAINST A STATES ACCUSATIONS. 214 AM. JUR. 2d CRIMINAL LAW 7 926

THIS 19 DAY OF NOVEMBER, 2014

MIKE REEFORD, JR., ISD

WRIGHTMAN, D. AS OFFICE, 8700 HOSPITAL DR., OUNGTAVILLE, GA 30134.

APPLICATION TO ILLINOIS. POST FIRST CLASS MAIL AND MS. ANNA
OUNGTAVILLE, GA 30134. WRIGHTMAN, D. AS OFFICE, 8700 HOSPITAL DR.

I HEREBY CERTIFY THAT I HAVE SIGNED A TRUE COPY OF THIS

CERTIFICATE OF SERVICE

THIS 19 DAY OF NOVEMBER, 2014

MIKE REEFORD, JR., ISD

RESPECTFULLY SUBMITTED

AND EQUITY TO GRANT HIS APPLICATION.

WHEREFORE, APPLICANT PRAYS TO THIS COURT OF FINAL RESORT.

PEOPLE V. SHERBORN, 159 CAT. APP. 4TH. 1168, 69 CAT. RPT. 2d361(4th MS. 199

JUSTICE, WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED.

OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARriage OF

PEOPLE V. ELLIOTT, 54 CAT. 2d498, 6 CAT. RPT. 753, 354 P.2d225 (1960). DENIAL

HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED.

21R AM. JUR. 2d CRIMINAL LAW 7926. MOREOVER, WHERE A DEFENDANT

A DENIAL OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW

PERMITTED TO STAND, SUCH WOULD BE A MISCARriage OF JUSTICE BECAUSE

THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DENIES

IN THE SUPERIOR COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

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STATE OF GEORGIA

NOV 14 DEC -1 PM 3:50

INDICTMENT NO. 14CR243 FILED

V.

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

MIKE REEFORD
DEFENDANT

NOV 19 2014

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

~~NOTICE OF APPEAL FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE~~
COMES NOW, MIKE REEFORD, DEFENDANT IN THE ABOVE STYLED CASE AND
HEREBY MOVES MS. TAMMY M. HOWARD CLERK OF DOUGLAS COUNTY
SUPERIOR COURT TO SEND THE RECORD OF MOTIONS FOR
DISQUALIFICATION AND/OR RECUSAL OF JUDGE AND THE ORDER OF
NOVEMBER, 7, 2014 "ORDER ON DEFENDANT'S MOTION FOR
DISQUALIFICATION AND/OR RECUSAL OF JUDGE." ISSUED BY
HONORABLE ROBERT J. JAMES AGAINST WHOM DISQUALIFICATION AND/OR
RECUSAL WAS FILED TO THE GEORGIA COURT OF APPEAL IN ATLANTA,
GEORGIA.

JURISDICTION FOR DIRECT APPEAL BY CERTIFICATE OF IMMEDIATE
REVIEW FOR JUDICIAL DISQUALIFICATION AND/OR RECUSAL OF A JUDGE.

MS. HOWARD WILL TRANSMIT TO GEORGIA COURT OF APPEAL TO WIT:

1.

ALL DOCUMENTS WITHOUT OMISSIONS, TRUNCATION OR ALTERATIONS.

2.

ALL ORDERS ISSUED, MOTIONS AND ALL AND ANY HELPFUL INFORMATION
AND REQUIREMENT TO THE GEORGIA COURT OF APPEAL TO REVIEW THE
CASE IN A TIMELY MANNER.

RESPECTFULLY SUBMITTED

THIS 12 DAY OF NOVEMBER, 2014 MIKE REEFORD, JD, JSO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED A COPY OF THIS NOTICE OF
APPEAL TO MS. ANNA VAUGHAN, ADA, DISTRICT ATTORNEY'S OFFICE
8700 HOSPITAL DRIVE, DOUGLASVILLE, GA. 30134 BY U.S. POSTAL FIRST
CLASS MAIL AND JUDGE ROBERT J. JAMES, 8700 HOSPITAL DR. DOUGLASVILLE, GA. 30134

MIKE REEFORD

THIS 12 DAY OF NOVEMBER, 2014

COPY

IN THE SUPERIOR COURT OF DOUGLAS COUNTY

STATE OF GEORGIA

2014 DEC -1 PM 3:50

CLERK/COURT ADMINISTRATOR CASE NO. 14CR243
COURT OF APPEALS OF GA

FILED

STATE OF GEORGIA
V.

MIKE REDFORD
DEFENDANT

NOV 04 2014

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

MOTION FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE

COMES NOW THE DEFENDANT MIKE REDFORD, IN THE ABOVE STYLED CASE PURSUANT TO THE DOCTRINE OF SAVAGE V. SAVAGE, 234 Ga. 853, 856, 218 S.E.2d 56 (1975), RESPECTFULLY SHOWS THIS COURT THE FOLLOWING:

1.

THAT THE SUBJECT CASE HAS BEEN ASSIGNED ACCORDING TO DOUGLAS COUNTY SUPERIOR COURT PROCEDURE TO THE HONORABLE JUDGE ROBERT J. JAMES

2.

THAT JUDGE ROBERT J. JAMES OUGHT TO BE DISQUALIFIED AND/OR RECUSED FROM ADJUDICATING IN ANY MANNER WHATSOEVER IN THE SUBJECT PROCEEDINGS IN THAT JUDGE JAMES' IMPARTIALITY MIGHT REASONABLY BE QUESTIONED. FURTHER, JUDGE JAMES HAS A PERSONAL BIAS OR PREJUDICE CONCERNING THE DEFENDANT.

3.

THAT JUDGE JAMES HAS MANIFESTED PARTIALITY AND/OR PERSONAL BIAS BY SEVERAL MEANS HEREINAFTER MORE FULLY DESCRIBED:

3.1.

HE HAS ARBITRARY, DELIBERATELY AND CAPRICIOUSLY ISSUED CONTRAVENI EQUITY ORDER INCONSISTENT WITH OR CONTRARY TO A RIGHT SOUGHT TO BE ENFORCE ONLY TO TURN AROUND AND BRING CRIMINAL PROSECUTION AGAINST THE DEFENSE ON HIS OWN ORDER.

3.2.

DEFENDANT HAS A CASE AGAINST HONORABLE JUDGE ROBERT J. JAMES IN THE UNITED STATES DISTRICT COURT ON MANDAMUS FOR FAILURE TO DO HIS JOB. OUR LEGAL SYSTEM IS BASED ON THE PRINCIPLE THAT AN INDEPENDENT AND COMPETENT JUDICIARY WILL INTERPRET AND APPLY THE LAWS THAT GOVERN U.

3.3.

DEFENDANT FILED MANDAMUS WRIT IN GEORGIA SUPREME COURT AND DOUGLAS COUNTY SUPERIOR COURT AGAINST JUDGE JAMES DOES NOT ACCORD DEFENDANT THE RIGHT TO BE HEARD ACCORDING TO LAW, CANON B(7).

JUDGE JAMES INTENDS TO PROVIDE THE STATE A MORE FAVORABLE OPPORTUNITY TO
CONTACT THE DEFENDANT BY DENYING ALL DEFENDANT'S MOTION. FAVORABLE IS NOT POSSIBLE HERE

3.9
MY REASONABLE PERSON WOULD HAVE ALLOWED DEFENDANT TO SEE HIS
WHILE AFTER 13 YEARS OF DENIAL OF VISITATION RIGHTS INSTEAD OF
ISSUING THE CONTRARY TO CONSTITUTIONAL RIGHT TO PARENTAL RIGHTS.

3.8
JUDGE JAMES WILL DISQUALIFY HIMSELF AND RECUSE FROM THE
CASE BECAUSE HE WILL BE CALLED AS A WITNESS TO EXPLAIN
HIS ORDERS AND WHY HE IS CRIMINALLY PROSECUTING THE
DEFENDANT WITH DENIAL OF VISITATION RIGHTS INSTEAD OF
WHAT IS NOT VIOLATION OF TPO.

3.7
THE ESTABLISHED PRINCIPLE THAT THE INTEREST OF THE STATE IN A CRIMINAL
PROSECUTION IS NOT THAT IT SHALL WIN A CASE, BUT THAT JUSTICE SHALL
BE DONE. ALTHOUGH WE HAVE ADOPTED AN ADVERSARY SYSTEM OF
CRIMINAL JUSTICE, THE PROSECUTOR IS MORE THAN AN OPPONENT
LITIGANT AND THE TRIAL JUDGE IS NOT SIMPLY AN ARBITRATOR WHO
INSURES THAT TECHNICAL RULES ARE FOLLOWED TO BOTH ARE CHARGED
WITH THE DUTY OF INSURING THAT JUSTICE, IN THE BROADEST SENSE
OF THAT TERM IS ACHIEVED IN EVERY CRIMINAL TRIAL. THAT GOAL IS
L-SERVED AND THE INTEGRITY OF AND PUBLIC CONFIDENCE IN THE SYSTEM
RE UNDETERMINED. JUDGE JAMES FAILURE TO AFFORD THE DEFENDANT A
REASONABLE OPPORTUNITY TO DEFEND HIMSELF WILL CONTINUE TO
COUNT TO DENIAL OF DUE PROCESS OF LAW.

3.6
JUDGE JAMES ALONG WITH THE PROSECUTOR HAVE CONSISTENTLY
EXPRESSED THEIR OWN OPINION DIRECTLY OR INDIRECTLY ABOUT THE
GUILTY (HE WILL STARK HEARD) BOTH AT THE BOND HEARING AND THE
TRIAL MOTION HEARING. FEDERAL CONSTITUTION REQUIRES THAT CRIMINAL
DEFENDANT BE AFFORDED A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE
DEFENSE U.S.C.A. CONST. AMEND. 6 D.C.G.A. 17-8-57

3.5
JUDGE JAMES HAS INITIATED EX PARTE COMMUNICATIONS WITH
THE DISTRICT ATTORNEY IN THE DEFENDANT'S MADE OUTSIDE THE
PRESENCE OF THE JURY CONCERNING A PENDING PROTECTIVE ORDER
IN ADVERSARY JUDGMENT AGAINST DEFENDANT CONTRARY TO CANON
3(B)(3) AND WITH CHALLENGED THE JUDGE MANIFESTED EXTREME
HOSTILITY AGAINST THE DEFENDANT.

3.4
JUDGE JAMES HAS INITIATED EX PARTE COMMUNICATIONS WITH
THE DISTRICT ATTORNEY IN THE DEFENDANT'S MADE OUTSIDE THE
PRESENCE OF THE JURY CONCERNING A PENDING PROTECTIVE ORDER
IN ADVERSARY JUDGMENT AGAINST DEFENDANT CONTRARY TO CANON
3(B)(3) AND WITH CHALLENGED THE JUDGE MANIFESTED EXTREME
HOSTILITY AGAINST THE DEFENDANT.

4.
THAT SECONDARILY, JUDGE JAMES HAS MANIFESTED PARTIALITY AND/OR PERSONAL BIAS AND/OR PREJUDICE AGAINST THIS DEFENDANT BY WRITING OF CERTAIN STATEMENTS MADE FROM THE BENCH NUMBER CERTAIN CIRCUMSTANCES ON AUGUST 27TH, 2014 AND OCTOBER 22ND, 2014 RESPECTIVELY TO-WIT:

(a)
JUDGE JAMES STATED FROM THE BENCH THAT DEFENDANT SHOULD NOT HAVE PAID CHILD SUPPORT TO THE CUSTODIAN PARENT, ~~DESPITE~~ THE FACT THAT PAYMENT WAS MADE THROUGH A THIRD PARTY, T.I.S. GOVERNMENT EVEN MORE ISOLATED TO HIS ORDER ADVOKING DIRECT CONTACT.

(b)
JUDGE JAMES STATED FROM THE BENCH THAT HE COULD DENY DEFENDANT'S MOTION FOR NO REASON OR LAINE.

(c)
JUDGE JAMES STATED FROM THE BENCH THAT HE DID NOT NEED TO READ ANY MOTION MAILED DIRECTLY TO HERE AS REQUIRED BY THE LAW BUT DENIED SUCH MOTION FOR LACK OF SERVICE.

5.
THE HONORABLE JAMES HAS OBTAINED PRIOR KNOWLEDGE OF SUCH FACTS IN THIS CASE AS THE RESULT OF IMPROPER PROSECUTORIAL CONDUCT BY THE ASSISTANT DISTRICT ATTORNEY RACHEL ACKLEY, SHERIFF DEPUTY KENNETH CONNER OF DOWDAS COUNTY SHERIFF DEPT AND GWINNETT COUNTY JUDGES THAT SEXUAL Molested HIS CHILDREN IN 2007. THE SAME GWINNETT COUNTY JUDGES THAT HAVE INDIRECTLY TERMINATE HIS PARENTAL RIGHTS SINCE THEN AND ORCHESTRATED JUDGE JAMES' DENIAL OF HIS VISITATION RIGHTS IN JUNE 5, 2013 AND ISSUANCE OF UNIFORMED TPO IN FURTHERANCE OF CONTINUING THE CRIME OF GWINNETT COUNTY JUDGES.

6.
THE DEFENDANT FEELS THAT SHOULD JUDGE JAMES FAIL TO DISQUALLY AND RECUSE HIMSELF, HIS IMPARTIALITY MIGHT BE OPEN TO QUESTION UNDER THE GUIDELINES PROMULGATED BOTH BY THE AMERICAN BAR ASSOCIATION AND THE SUPREME COURT OF GEORGIA. UNDER THOSE GUIDELINES, JUDGES SHOULD DISQUALIFY THEMSELVES NOT ONLY WHEN THEIR IMPARTIALITY MAY BE QUESTIONED BUT THEY SHOULD DISQUALIFY THEMSELVES IN ORDER TO AVOID THE VERY APPEARANCE OF BIAS.

UNIFORM SUPERIOR COURT RULE 25.3 DUTY OF THE TRIAL JUDGE
WHEN A JUDGE IS PRESENTED WITH A MOTION TO REUSE OR
DISQUALIFY, ACCOMPANIED BY AN AFFIDAVIT, THE JUDGE SHALL
TEMPORARILY CEASE TO ACT UPON THE MERITS OF THE MATTER AND
SHALL IMMEDIATELY DETERMINE THE TIMELINESS OF THE MOTION AND
THE LEGAL SUFFICIENCY OF THE AFFIDAVIT AND MAKE A DETERMINATION
AS TO WHETHER THE FACTS ALLEGED IN THE AFFIDAVIT TO BE TRUE.
IF THE JUDGE RECALLED WOULD BE WARRANTED, THE TRIAL JUDGE SHALL NOT
OTHERWISE OPPOSE THE MOTION. THE JUDGE SHALL BE GUIDED BY
CANON 3(C) OF THE GEORGIA CODE OF JUDICIAL CONDUCT AND
O.C.G.A. 15-1-8(C)(2) WHICH STATUTORILY GOVERNS JUDICIAL
DISQUALIFICATION.

8.

IT IS IMPORTANT TO THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM THAT
THE PUBLIC'S CONFIDENCE IN THE IMPARTIALITY OF ITS JUDICIARY NOT BE
ERODED BY ANY APPEARANCE OF BIAS.

9.

BY THIS MOTION, THE DEFENDANT MOVES THAT THE HONORABLE ROBERT
J. JAMES, JUDGE OF THE SUPERIOR COURT OF DECATUR COUNTY,
DISQUALIFY AND REUSE HIMSELF VOLUNTARILY FROM SITTING ON THE
TRIAL OF THIS CASE.

WHEREFORE, DEFENDANT PRAYS HIS MOTION BE INQUIRED INTO
BY THIS COURT, THAT AN EXTRAORDINARY HEARING BE HAD, RULE 15.1
ISSUED AND THAT SAID MOTION BE GRANTED.

RESPECTFULLY SUBMITTED
MIKE REDFELD

THIS 27TH DAY OF OCTOBER, 2014.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED THIS MOTION TO HONORABLE
ROBERT J. JAMES, DECATUR COUNTY JUDICIAL CIRCUIT AND ADA
AT THE DECATUR COUNTY DISTRICT ATTORNEY'S OFFICE, 870,
HOSPITAL ROAD, DECATUR, GA 30030 BY ASKING DECATUR
COUNTY SUPERIOR COURT CLERK, MS. TAMMY M. HERRARD
TO HAND DELIVER IT TO THEM.

MIKE REDFELD

THIS 27 DAY OF OCTOBER, 2014

AFFIDAVIT

COPY

COUNTY OF DOUGLAS

FILED

STATE OF GEORGIA

NOV 04 2014

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

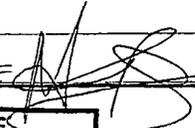
I, MIKE REDFORD, MAKE THE FOLLOWING STATEMENT UNDER OATH: THAT ON JULY 2ND, 2013, HONORABLE ROBERT J. JAMES CONDUCTED A TEMPORARY STALKING ORDER (TPO) HEARING BROUGHT BY THERESA CHINWE REDFORD AN EX-WIFE OF MIKE REDFORD FOR EXERCISING HIS VISITATION RIGHT WITH HIS CHILDREN NAIDIAMAKA T. REDFORD, MICHAELAS O. REDFORD, CHRISTOPHER C. REDFORD AND DANIEL C. REDFORD. DURING THAT HEARING HONORABLE ROBERT J. JAMES ISSUED A TPO AND MIKE REDFORD CHALLENGED IT, STATING THAT SUCH ORDER ABROGATED HIS RIGHT TO MAKE HIS CHILD SUPPORT PAYMENT TO THE CUSTODIAN PARENT BECAUSE THE TPO STATED NO CONTACT WAS TO BE MADE WITH THE CUSTODIAN PARENT. HONORABLE JAMES SAID THAT SUCH PAYMENT WOULD NOT VIOLATE THE TPO, BUT WHEN MIKE REDFORD OBEYED THE COURT HE WAS ARRESTED AND CHARGED WITH MULTIPLE COUNTS OF AGGRAVATED STALKING OF WHICH HE STANDS FOR TRIAL BEFORE THE SAME JUDGE JAMES THAT AUTHORIZED HIS CHILD SUPPORT PAYMENT.

COURTS ARE INVESTED WITH THE EXCLUSIVE ULTIMATE POWER TO CONSTRUCT LAWS. WHEN A COURT ADJUDICATES THAT A PETITION ALLEGES NO CAUSE OF ACTION, WHETHER RIGHTLY OR ERRONEOUSLY THAT BECOMES THE LAW OF THE CASE AND NEITHER THE LEGISLATURE NOR THE JUDICIARY CAN DISREGARD THAT RULING. JUDGE JAMES HAS CREATED CONFLICT OF INTEREST IN HIS CONTRADICTIONARY ACTIONS OF HIS IMPARTIALITY IN THE CASE IS QUESTION UNDER CANON 1, 2, & 3. JUDGE JAMES UNDER CANON 3(C) DISQUALIFICATION SECTION 1(G) BECAUSE THE WAY THE JUDGE AND FOUR ASSISTANTS DISTRICT ATTORNEYS HAS CONDUCTED THEMSELVES DURING PRE-TRIAL MOTIONS SHOW PERSONAL BIAS AND PREJUDICE CONCERNING DEFENDANT AND PERSONAL KNOWLEDGE OF DISPUTED EVIDENTIARY FACTS CONCERNING THE PROCEEDING.

THEREFORE, I REQUEST THAT MY CASE BE TRANSFERRED TO ANOTHER JUDGE

NOTARY PUBLIC

THIS DAY OF 1, 2014

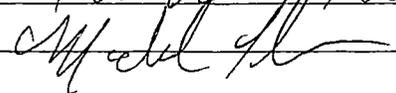
AFFIDAVANT SIGNATURE 

SWORN TO AND SUBSCRIBED BEFORE ME

MICHAEL L. DEESE
NOTARY PUBLIC
Douglas County
State of Georgia
My Comm. Expires August-15, 2017

THIS 30 DAY OF OCT 1, 2014

EXPIRATION DATE:



IN THE SUPERIOR COURT OF DOUGLAS COUNTY
STATE OF GEORGIA

 ORIGINAL

STATE OF GEORGIA
Plaintiff

FILED

Versus

CASE NO. 14CR00243

NOV 07 2014

MIKE JETHRO AZUBIKE REDFORD
Defendant

Tammy M. Howard, Clerk
Superior & State Court
Douglas County, GA

**ORDER ON DEFENDANT'S MOTION FOR DISQUALIFICATION AND/OR RECUSAL
OF JUDGE**

The motion to recuse was not timely filed. "USCR 25.1 requires the motion to be filed not later than five (5) days after the affiant first learned of the alleged grounds for disqualification ... unless good cause be shown for failure to meet such time requirements." *Mayor & Aldermen of City of Savannah v. Batson-Cook Co.*, 291 Ga. 114, 119 (2012). The motion was filed on November 4, 2014, thirteen (13) days from the latest date cited by Defendant, October 22, 2014, and sixty-nine (69) days after the earliest date, August 27, 2014. Further, Redford has not shown good cause for meeting the time requirements.

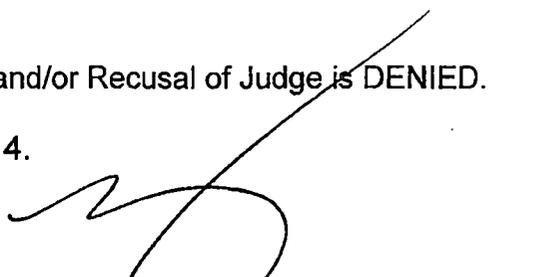
The affidavit's certification is legally insufficient as "[Redford]'s affidavit stops far short of certifying that all facts in the motion to recuse are true and accurate to the best of his knowledge." *Keller v. State*, 286 Ga.App. 292, 295 (2007)(overruled on unrelated grounds).

The affidavit lacks specific and definite information required by USCR 25.2 and *Mayor, supra*, at 120, and *Keller, supra*, at 295.

The grounds for recusal are legally insufficient. "Recusal is warranted only when the alleged bias is the product of an "extra-judicial" source and the fact that the judge has sat on prior cases of the party or ruled on prior matters in the case before the judge is legally insufficient as a ground for recusal." *Id.* at 296. All of the allegations of bias arise from proceedings in the cases against Redford. Further, like that in *Keller*, and unlike that in *Johnson v. State*, 278 Ga. 344 (2004), there are no instances of "bias" alleged by Redford that have occurred during any hearing that are such that would require recusal.

Defendant's Motion for Disqualification and/or Recusal of Judge is DENIED.

SO ORDERED this November 6, 2014.



ROBERT J. JAMES
Judge, Superior Court
Douglas Judicial Circuit

11/7/14

JUDGE'S DISTRIBUTION LIST:

✓ ANNA VAUGHAN, DISTRICT ATTORNEY, 8700, HOSPITAL DR, ASST.DISTRICT ATTORNEY, DOUGLASVILLE, GA, 30134

mike Redford

IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

MIKE REDFORD

APPELLANT

v.

STATE OF GEORGIA

APPELLEE

APPEAL CASE NO

DOUGLAS COUNTY CASE NO. 14CR243

APPLICATION FOR APPELLATE REVIEW

MIKE REDFORD, APPLICANT, APPLIES TO THIS COURT AS FOLLOWS:

- 1) TO ISSUE AN ORDER GRANTING THE APPLICANT AN APPEAL FROM THE ORDER OF THE SUPERIOR COURT OF DOUGLAS COUNTY, HONORABLE ROBERT J. JAMES, PRESIDING, IN THE CASE STYLED MIKE REDFORD, APPELLANT V. STATE OF GEORGIA, APPELLEE, CASE NO. 14CR243, THIS ORDER FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE ROBERT J. JAMES HAVING HELD: THAT THE AFFIDAVIT LACKS LEGAL SUFFICIENCY.
- 2) THIS APPLICANT SHOWS THAT THE JURISDICTION IS PROPERLY IN THIS COURT BECAUSE GEORGIA COURT OF APPEALS HAS JURISDICTION IN PURSUANT TO O.C.G.A. 5-6-34(b) FOR INTERLOCUTORY REVIEW OF AN ORDER THAT IS OF SUCH IMPORTANCE TO THE CASE THAT IMMEDIATE REVIEW SHOULD BE HAD.
- 3) THIS APPLICATION OF APPEAL IS FILED WITHIN 10 DAYS OF THE GRANTING AND FILING OF THE CERTIFICATE OF IMMEDIATE REVIEW.
- 4) COPIES OF ALL PERTINENT DOCUMENTS HAVE BEEN ATTACHED TO THIS APPLICATION AS EXHIBITS "A" AND "B".
- 5) THE NEED FOR INTERLOCUTORY APPELLATE REVIEW IS FEDERAL CONSTITUTION REQUIRES THAT CRIMINAL DEFENDANT BE AFFORDED A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE. U.S.C.A. CONST. AMEND. 6; STATE V. PERKINS, 271 CANN. 218, 856 A.2d 917 (2004). RULE PROCESS VIOLATION, ESTES V. TEXAS 381 U.S. 532 (1965). A BIASED TRIBUNAL ALWAYS DEPRIVES THE ACCUSED OF A SUBSTANTIAL RIGHT. U.S.C.A. CONST. AMEND. 14, BARNEY V. CONWAY, 730 F. SUPP. 2d 264 (N.D. N.Y. 2010). THE GUARANTEE OF A FAIR TRIAL IS NOT A BACKSTOP THAT INOCULATES ANY ERRORS IN THE PRETRIAL PROCESS. MISSOURI V. FRYE, 132 S. CT. 1399 (2012).
- 6) APPLICANT SUBMITS THAT AN APPEAL SHOULD BE GRANTED BECAUSE EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE AND FUNDAMENTAL RIGHT TO A FAIR AND IMPARTIAL TRIAL. HOLBROOK V. FLYNN, 475 U.S. 560 (1986). A CRIMINAL DEFENDANT'S RIGHT TO A FAIR TRIAL IS PARAMOUNT. U.S.V. NIX, 976 F. SUPP. 417 (S.D. MISS. 1997). A CRIMINAL DEFENDANT POSSES THE CONSTITUTIONAL RIGHT TO A FAIR OPPORTUNITY TO DEFEND AGAINST A STATES

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DECLINE THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE PERMITTED TO STAND, SUCH WOULD BE A MISCARRIAGE OF JUSTICE BECAUSE A DENIAL OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF LAW. 21A AM. JUR. 2d CRIMINAL LAW §926. MOREOVER, WHERE A DEFENDANT HAS BEEN DENIED A FAIR TRIAL, PREJUDICE MUST BE PRESUMED. PEOPLE V. ELLIOT, 54 CAL. 2d 498, 6 CAL. RPTR. 753, 354 P.2d 225 (1960). DENIAL OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARRIAGE OF JUSTICE WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED. PEOPLE V. SHERROD, 59 CAL. APP. 4TH 1168, 69 CAL. RPTR. 2d 361 (4TH DIST. 1997).

WHEREFORE, APPELLANT PRAYS TO THIS COURT OF FINAL RESORT AND EQUITY TO GRANT HIS APPLICATION.

RESPECTFULLY SUBMITTED
MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE SERVED A TRUE COPY OF THIS APPLICATION TO JUDGE ROBERT J. JAMES, 8700 HOSPITAL DR. DOUGLASVILLE, GA. 30134 VIA U.S. POST FIRST CLASS MAIL AND MRS ANNA VAUGHAN, 8700 HOSPITAL DR, DOUGLASVILLE, GA. 30134

MIKE REDFORD, JD, ISD

THIS 19 DAY OF NOVEMBER, 2014

IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

MIKE REDFORD
APPELLANT
V.
STATE OF GEORGIA
APPELLEE

APPEAL CASE NO.
DOUGLAS COUNTY CASE NO. 14 CR 243

APPLICATION FOR APPELLATE REVIEW

MIKE REDFORD, APPLICANT, APPLIES TO THIS COURT AS FOLLOWS:

- 1) TO ISSUE AN ORDER GRANTING THE APPLICANT AN APPEAL FROM THE ORDER OF THE SUPERIOR COURT OF DOUGLAS COUNTY, HONORABLE ROBERT J. JAMES PRESIDING, IN THE CASE STYLED MIKE REDFORD, APPELLANT V. STATE OF GEORGIA APPELLEE, CASE NO. 14 CR 243, THIS ORDER FOR DISQUALIFICATION AND/OR RECUSAL OF JUDGE ROBERT J. JAMES HAVING HELD: THAT THE AFFIDAVIT LACKS LEGAL SUFFICIENCY.
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THIS 19 DAY OF NOVEMBER, 2014

MIKE KEFFORD, TO, ISD

~~DAVIDSONVILLE, GA 30134~~

~~DAVIDSONVILLE, GA 30134 VIA U.S. POST FIRST CLASS MAIL AND PS~~

~~APPLICATION TO JUDGE ROBERT J. JAMES, 8700 HOSPITAL DR.~~

I HEREBY CERTIFY THAT I HAVE SERVED A TRUE COPY OF THIS

CERTIFICATE OF SERVICE

THIS 19 DAY OF NOVEMBER, 2014

RESPECTFULLY SUBMITTED
MIKE KEFFORD, TO, ISD

EQUITY TO GRANT HIS APPLICATION.

WHEREFORE, APPLICANT PRAYS TO THIS COURT OF HON. JUDGE AND

PEOPLE V. STERRO, 59 GA. APP. 474 1168, 69 GA. RPT. 2d 361 (4th DIST. 1997).

JUSTICE, WHETHER OR NOT PREJUDICIAL ERROR IS ESTABLISHED.

OF A FAIR TRIAL IN AND OF ITSELF, RESULTS IN A MISCARriage OF

PEOPLE V. ELIOT, 54 GA. 2d 498, 6 GA. RPT. 753, 354 P.2d 225 (1960). BALL

DEFENDANT HAS BEEN DENIED A FAIR TRIAL, JUSTICE MUST BE PRESERVED.

LAW. 218 AM. JUR. 2d CRIMINAL LAW 796. MOREOVER, WHERE A

A SERVICE OF FAIR TRIAL MAY CONSTITUTE A DENIAL OF DUE PROCESS OF

PERMITTED TO STAND, SUCH WOULD BE A MISCARriage OF JUSTICE BECAUSE

THE APPEAL OF THIS MATTER AND THE TRIAL COURT'S RULING WILL BE

APPLICANT RESPECTFULLY SHOWS THAT IF THIS HONORABLE COURT DECIDE

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

Date: December 17, 2014

To: Mr. Edward Tyrone Ridley, GDC570139 L4-107-B, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

Docket Number: A14A1879 **Style:** Edward Ridley v. The State

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

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

Clerk

12/9/24

This is not a amended Bond for case

no 141879. This is for what I filed a timely notice of appeal from denial of motion

in case of Ridley v Brantours DCJ, that clerk fail to forward to you. which I sent you the notice

of appeal that you stamped filed and seal the copy back. I need this filed in the lower

court can't claim wasn't timely filed. I sent you a motion to compel so you can order the

lower court to forward to you. Attached is a copy of that denial by Judge Chns

Hagos. Will you please file with force than to send record of appeal. You

can consolidate with case no 141879

if necessary some Z. I'll file case

no 138. He is waiting for the

three. He is waiting for the court to sever the record

in which he filed a different court to sever the record

with and then he wants to consolidate the new case

no 141879

May 5 2013
May 5 2013

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

Date: December 2, 2014

To: Mr. Edward Tyrone Ridley, GDC570139 14-107-B, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

Docket Number: A14A1879 **Style:** Edward Ridley 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.**
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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.

Don't have
any way to
staple here.

IN THE COURT OF APPEALS, STATE OF GEORGIA

EDWARD TYRONE RIDLEY

Appellant.

CASE NO. From denial of Emergency Permanent Injunction,
O.C.G.A. 17-9-4, Rule 33.10 denied October 31st 2014.
CAN be CONSOLIDATED with A14A1879 if necessary
by Court.

v.

STATE OF GEORGIA

Appellee.

BRIEF / CAN use this and
Amended Brief filed in case A14A1879

RECEIVED IN OFFICE
2014 DEC -1 AM 11:10
CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Mr. Edward Tyrone Ridley 570139
Mr. Edward Tyrone Ridley, 570139
Johnson State Prison
P.O. Box 344
Wrightsville, Ga. 31096

ENUMERATION OF ERRORS

- (1) Court erred when failed to properly allow state to answer motion as required by law!
- (2) Court erred when denied motion in case no. 13R-149 without just construing as criminal if true to allow respondent to answer since judge assumed that was for criminal case and denied as was filed with criminal case no when denied that forged ruling for criminal (case, 13R-149; without allowing state to answer facts in motions; (3) Done with vindictive malice by ineffective assistance of counsel when he corruptly allowed state and court to convict Ridley under 42-1-12 (9)(A) and place that upon person as a adult in Florida on his arrest Dec. 12, 1995 not minor as 42-1-12 (9)(A) required.
- (4) with vindictive malice by ineffective counsel failed to force state to abide by Ridley 7/29/96 Fla Contract where he received time served from 12/12/95 through 7/29/96 made his conviction on 12/12/95 not 7/29/96 where he was only required to give DATA to FOLE NOT 42-1-12 or FS. 943, 0435 THEN OR IN FUTURE!

Erred

5.

Done with vindictive malice when counsel knew

Ridley never went before any Florida judge

to be classified and knew both state judge

attorney that he never heard of the sanction

on Oct. 1, 1997 with Ridley contacted the attorney

with response back on July 25, 2014, Ridley

was not in 2003 on parole, probation before

parole Ridley, illegally on Fla. S.O. with ^{out} due

process as a V.C.S.R., C.M., and C.S.O., the

state have not had hearing in Crisp Co. Ga. they

like (c) (6) to been illegally forced there 2013

Erred with vindictive malice when counsel failed to

inform Ridley of Sorina what took place at

O.C.G. 42-12-12 and 943.0435, 29.299, that put

in place by Congress in 2006 a National S.O.

did away with the state-by-state S.O.R. put

in place 42 USCS 16901

Erred with vindictive malice when sentenced Ridley

to 30 yrs punishment with 3 yrs to serve with 1/3

months to make parole at 1/3 first sentence post

Nov. 15, 2014 to Nov. 30, 2015 violation of Stevens

Court, when under 16901 Ridley couldn't receive

only up to 10 yrs in prison not 30 yrs, punishment

was done corruptly by Crisp Co. ~~County~~

(8) ended with vindictive malice when attorney allowed him to be barred from Cisp Co. Judicial Circuit when Fla. Person has no ties to Cisp Co. (Sudexin) Circuit, Ridley was not in any State Parole.

Probation ect. in Georgia at conviction, was illegally convicted in or around 2006 for violating 42-1-12 moving by church, illegal felon probation when warning was in place and law was changed by Congress (L.S.)

(9b) ended with vindictive malice when Court failed to issue injunction when F.S. 943.0433 was not a law was not pronounced in 12 day sentence, Court should have enforced Ridley's Contract or placed him to withdraw his Fla. Contract on 7/29/96 as required by law.

(11) ended with vindictive malice when Court ruled under 17-9-4 without hearing and counsel; ended with vindictive malice because Pleas a Contract.

(12) ended with vindictive malice Court ruled without hearing on Affidavit before his conviction and placed in custody by Cisp Co. Sheriff Agent Mark Masters without Ridley going before a Judge for extradition or a Governor warrants from Georgia or Ala. to be placed in his custody that constituted kidnapping false imprisonment

CITATION OF AUTHORITY

US Congress did away with the state-by-state registers to enact SORNA as part of the Adam Walsh Protection Act of 2006, Pub. L. No. 109-248, 120 Stat. 587 (664 F.3d 852) at 42 U.S.C.S. 16901, et seq., in response to the vicious attacks by violent predators. 42 USCS 16901, et seq. "NATIONAL SYSTEM" for those offenders. (registration) registration for the most dangerous category of S.O. see 42 USCS 16916(3). United States v. Powers, 562 F.3d 1302, 1314 (11th Cir. 2009). The high recidivism rates of those who commit S.O. against children. see US v. Zrey, 612 F.3d 1160, 1214-15 (11th Cir. 2010) (en banc) Congress eliminated the state-by-state registers ~~Arthur, 813 F.3d 1254-56, see Deveau v. Braisted~~ where state-by-state had left gaps in the system, resulting in a estimated 100,000 unaccounted S.O., S. Rep. No. 109-369, at 16 (2006) with SORNA Congress sought to fill those gaps.

Failure to register as required by THE ACTS Punishable by up to 10 Years Imprison NOT 30 as Ridley was illegally under 42+12. That in 2006 was replaced by 42 USCS 16901 et seq.,

Ridley never went in Florida to original Court to be illegally place on First Florida S.O. registry without a fair warning, Due Process Hearing was not on any type Parole, Probation ect. in 2003 attempted

to challenge in Bay Co. Fla. Clerk refused said was
banned 1/30/98, in Cisp Co. Ga. refused to answer
asked Tom Edison before 13R-144 and deny
refused, others in Cordele Public Defenders Office
Cordele, Bay Co. refused, Fed motions in Federal
Courts in Fla. N. Dist. Con. Middle Dist, Ala. N. Dist
was not in custody

The Florida Co. Prosecutor must seek judicial
approval of notification without prior advice to its
dissemination (2d, 931 F. Supp. 1220), *Mathias v. Eldridge*
421 U.S. 319, 334 (1976), There must be sufficient advice
and a meaningful opportunity to be heard, *US v. Redford*,

826 F.2d 218, 802 (3d Cir. 1987); *Kobal v. U.S.*, 753 F.2d
1208, 1218 (3d Cir. 1985), 931 F. Supp. 1207, *Ritway*, 81 F
3d at 1250 n. 9; *Waver v. Graham*, 460 U.S. 24, 101 S. Ct.

966 (1982), the Ex Post Facto Clause not only ensures
that individuals have "fair warning about the effect
of criminal statutes but also "restricts governmental
power by restraining arbitrary and potentially

vindictive legislation," 7d at 28-29, 101 S. Ct. 1483
(1994). *Redley* only heard of Fla. Oct. 1, 1997 Sanderson
on 7/25/97 when wrote the lawyer well after his

11/18/13 illegal sentence almost 2 decades 20 yrs
after he release from Fla. Prison on 12/11/98

CITATION OF AUTHORITY
From US v. Carter

209 US App LEXIS 12868; US v. Wellman, (2011, CA4 WVA)
663 F3d 224; US v. Carter, (2011 CA11 Fla) 2011 US LEXIS
1131; USCS 16917(a) SOPNA requires not shortly before
release from custody or immediately after sentencing.
Optimal exemptions (1) any information about a tier I
S.6 convicted of an offense other than specified offenses
against a minor need fair warning. US v. Wayest, 624
F.3d 1342, 1347 (11th Cir 2010) quoting Hill v. Colorado, 530 US 703,
732 (2000); US v. Carter, 422 Fed Appx 803, 803; 943, 6435 defines
Congress enacted 2260A 422 Fed Appx 803, F.S. 943, 6435 defines
for a violation of only 800.04, to qualify as a S.O. under F.S.
943, 6435 a person is only required, in relevant part, to have
been convicted previously under F.S. 800.04 see Fla. Stat. 943,
043 (1) (A). Thus because Carter stipulated to his previous
800.04 conviction the government sufficiently proved this point,
Have to live in Florida to qualify for 943, 6435 to apply, US
v. ~~Healy~~ Healy, 926 F.3d 875, 877 (11th Cir. 1991); US v. Serefe
556 F.3d 1157, 1161 (11th Cir. 2009) (en banc) 130 S.Ct. 1887, 115
v. Prather, 205 F.3d 1205, 1270 (11th Cir. 2000) (quoting US v. Brices
984 F.2d 1139, 1143 (11th Cir. 1993) see United States District
Court for the Southern District of Florida DC Doc let No. 2108
-14663-SEM-1; US v. Carter 38 Fed Appx 449, 209 US
App LEXIS 21725 (11th Cir. Fla. 2009) 42 USC 14071, 509 LEXIS
1057-3d 610, 612 (11th Cir. 1997).

Kryz U. Siegelman 195 F.3d 1285, 1292 (11th Cir. 1995)

Ridley was entitled to due process before the state
declared/announced Ridley to be a "S.O." who should
have effect of being classified as a S.O. constitutes
a deprivation of liberty under Due Process Clause.

282 Con. 704, Taylor 304 Con. app. 878 (2010)

Extradition, Proclamation in Sealence,

withdrawal of plea, Enforce the plea anything
else filed arguments in unanswered or

answered matters in both lower and

appellate court already within records

Conclusion / Relief,

Ridley has shown clear state/federal

law why case must be dismissed

Enforce Ridley the contract on 2/29/96

withdrawn Ridley contract for hearings

IN the courts as required by laws,

Emergency immediate release from state

custody, Remove of 42-12, 1092, 913.0435,

Recognition held the was out bond in 6 mos

Not a fugitive from justice. Any other relief

Court Deem Necessary, This 2nd day of

November 2014

Respectfully Submitted
Mr. Edward Ryan Ridley 570139

Mr. Edward Ryan Ridley 570139, Johnson

State Prison, P.O. Box 344, Kingsville, GA 31096

CERTIFICATE OF SERVICE

I here by certify that I have this day served the Respondent(s) with a copy of the forgoing, by placing the same in the United States mail in a proper envelope with adequate postage attached, properly addressed to:

Denise Fechin; District A Hooper
Crisp County Courthouse
510 N. 24th St. P.O. Box 5510
Cordele, Ga. 32015

This 23rd Day of November, 2014.

James Earl Ridley 520139
Petitioner Pro Se

Petitioner's address:

Johnson State Prison
P.O. Box 344
Wrightsville, Ga 31096
44-107-B

IN THE SUPERIOR COURT OF CRISP COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

*

*

Case No. 13R-149

v.

*

EDWARD TYRONE RIDLEY,

*

Defendant.

*

ORDER

The above Defendant has mailed to this Court a document entitled "Emergency Permanate (sic) Injunction/ O.C.G.A. 17-9-4, Rule 33.10." It is styled "Edward Tyrone Ridley v. Brian Owens, Commissioner of the Georgia Department of Corrections."

To the extent that this is intended to be a civil action, the Clerk of Crisp Superior Court is hereby directed pursuant to O.C.G.A. § 9-15-2(d) not to file the above-styled action in this Court inasmuch as this Court finds that the pleading shows on its face such a complete absence of any justiciable issue of law or fact that it cannot reasonably be believed that the Court could grant any relief against any party named in the pleading.

This pleading was not accompanied by the appropriate filing fee or indigency affidavit and is not proper for filing in any event as a civil action.

To the extent that this pleading is intended to be a Motion in the above criminal action, which is what the body of the document seems to imply, the

Exhibit

THE COURT OF APPEALS, STATE OF GEORGIA

RIDLEY V. THE STATE NO CASE NO. ASSIGN 11

From denial of Emergency Writ of Habeas Corpus, OCGA 17-9-4, Rule 33.1c that was denied Oct 31, 2014, mailed Oct 31, 2014. Appeal / Writ 12, 2014 sent this court copy per stamped form Nov. 19, 2014. See attached motion to compel.

EMERGENCY MOTION TO COMPEL

Appellant, please respectfully moves this Honorable

Court to Compel the Clerk of Superior Court to

forward you the record on appeal in above mentioned

Notice of appeal timely filed as Ridley provided this

Court with copy. As this court knew from case no

11141479, the State will claim Ridley didn't file this

Appeal timely. He says this court will demand they

Send record and answer but filed that Ridley had

Mailed this court pursuant to rules of court. The

in good faith. This 1st day of December 2014

~~Respectfully Submitted~~
~~Edward T. Ridley~~ 5/20/139

Mr. Edward T. Ridley, 5/20/139
Johnson State Prison

P.O. Box 344
W. Ga. 31096

~~Edward T. Ridley~~



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 17, 2014

To: Ms. Clareth Ross, GDC176413 D-D12, Lee Arrendale State Prison, Post Office Box 709, Alto, Georgia 30510

Case Number: Lower Court: County Superior Court

Court of Appeals Case Number and Style:

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

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

RECEIVED IN OFFICE
2014 DEC 16 AM 11:45
CLERK & COURT ADMINISTRATOR
COURT OF APPEALS OF GA

December 10, 2014

Stephen E. Castlen, Clerk
Court Of Appeals Of Georgia
Suite 501
47 Trinity Avenue
Atlanta, Georgia 30334

Re: Cease-And-Desist Letter - Request To Withhold Docketing

Dear Mr. Castlen:

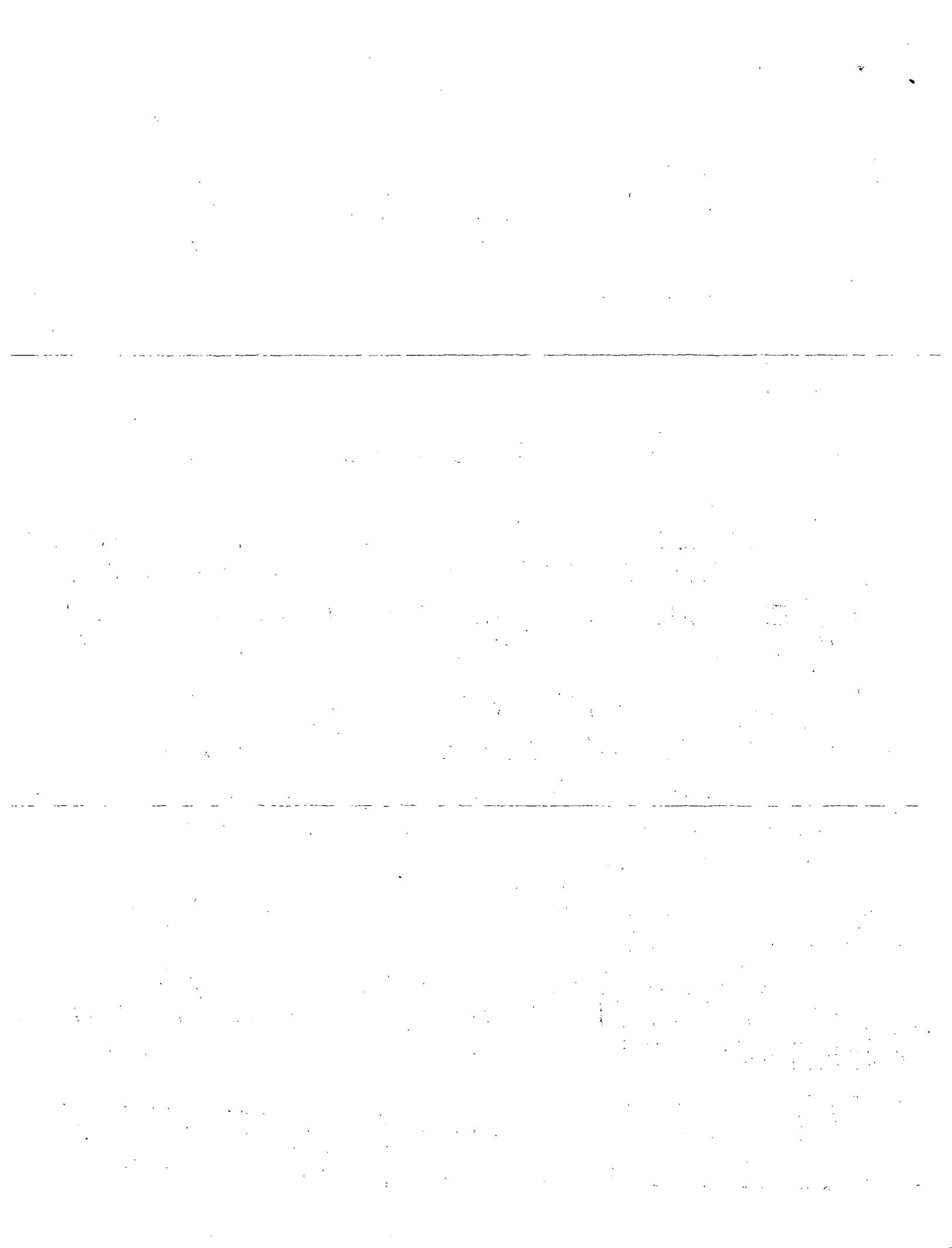
Whereas, today December 10, 2014 I am in acknowledgment via "CERTIFIED MAIL" dated "ROTH A. WILSON, CLERK, ROCKDALE SUPERIOR COURT, ... stating, "[E]nlosed herewith is an Appeal that has been filed in the above-styled case" addressed to the above-named clerk.

However, the docketing of the Appeal would be premature because a motion entitled "Motion To Void Convictions and Sentences for Lack of Jurisdiction Over Ross and Ross Trucking Co., Inc., Account Number: 2041105970" was filed on October 29, 2014 at 10:12 AM in the Rockdale County Clerk's Office.

Subsequently, a "Motion for Reconsideration, ... was filed on or sometime after October 22, 2014.

The Court whether advertently or inadvertently enter an ORDER under D.C. R.O. 317-10-1(f) titled the "Motion for Reconsideration" MOTION FOR RECONSIDERATION, a clear violation of D.C. R.O. 317-10-1(f) as Out-of-Place.

Thus, this Appeal should not be DOCKETED pending the outcome of a Motion To Correct Misnomer Prior To Appellate Review in regards to



a postconviction DISSENT motion.

Thank you in advance.

Sincerely,
~~Charlotta Ross~~
Charlotta Ross, Pro Se
CDC. No. 176413/D-13/PC

CERTIFICATE OF SERVICE

This is to certify that I have, on this day, submitted complete and correct copies of the foregoing document(s) upon the parties listed below, by placing same in the United States mail, with sufficient postage affixed thereto.

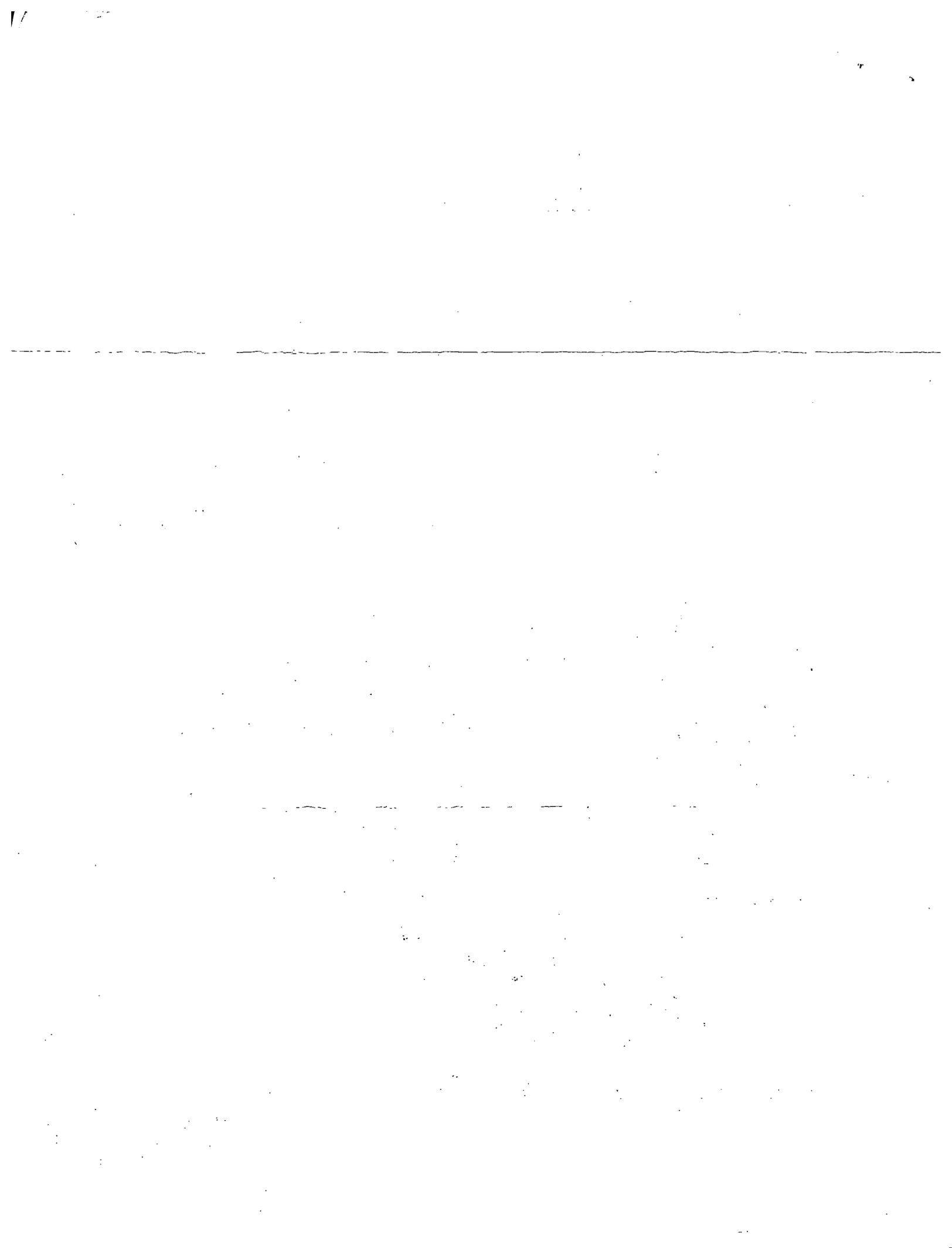
~~Richard A. Wilson, Clerk
P.O. Box 937
Conyers, GA 30012~~

Richard R. Read, Dist. Atty.
P.O. Box 289
Conyers, GA 30012

* Stephen B. Cashlen, Clerk
Ch. Cl. Appeals of Georgia
47 Kennedy Ave., Suite 501
Atlanta, GA 30334

This 10th day of December, 2014.

~~Charlotta Ross~~
Charlotta Ross, Pro Se
CDC. No. 176413/D-13/PC
Lee Abernethy State Prison
P.O. Box 709
Alto, GA 30510-0709



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 17, 2014

To: Ms. Kunita K. Parker, GDC979530, Newton County Detention Facility, 15151 Alcovy
Jersey Road, Covington, Georgia 30014

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

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

Kuiter K. Baker
 vs
 State of Georgia

RECEIVED IN OFFICE
 2014 DEC 16 PM 3:02
 CLERK/COURT ADMINISTRATOR
 COURT OF APPEALS OF GA

1. Now comes the above named appellant in an effort to appeal the decision made by the state of Georgia to revoke part of his probation sentence that has yet to begin. Revocation of probation occurred on 12/4/14 (Docket No: 2007CP10774) in the Superior Court of Newton County Georgia.

2. On 5/23/10 Appellant K. Baker was sentenced by the Superior Court of Newton County Georgia to serve as follows: 10 years to serve 2 years in confinement in County 1 & 2 of aggravated assault (2 CTS). 5 years probation to run consecutive to Count 1 & 2 for loss of firearm as a convicted felony.

3. On 12/4/14 the state of Georgia revoked 36 months of probation to be served in the state penal system. However, Appellant Baker only had 17 months 19 days of probation for Count 1 & 2 aggravated assault which is set to end May 23, 2016.

4. The Appellant argues that the additional 18 months 11 days of the 36 month revocation was illegally revoked because it was part of a 5 year probation sentence that has yet to begin. See *Lombardo vs State, 244 Ga App 885, 537 SE 2d 143 (2005)*.

5. Following the 1992 Amendment of O.C.G.A. 17-10-1 the trial courts no longer has the power to revoke a probation sentence that has yet to begin - as it did on 12/4/14 by revoking 19 months 11 days of a probation sentence yet to begin. The conditions of this 5 years probation that don't begin until 2016 may 23, has not been stipulated to Appellant v. Baker) therefore how can't be revoked for violating conditions or guidelines I was never made aware of.

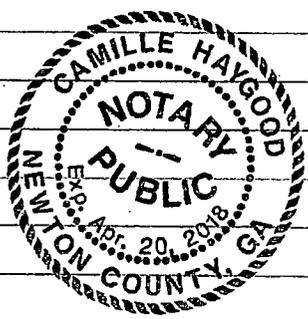
Appellant ask that revocation of probation by state of Georgia be reversed and amended in accordance to the Amendment of O.C.G.A. 17-10-1 and *Lombardo vs State, 244 Ga App 885, 537 SE 2d 143 (2005)*. Appellant argues that its unfair and illogical for the state to revoke very part of the probation that not to begin until May 24 2016 for an violation probation that's available for revocation by the state.

The 7th day of December 2014
[Signature]
Appellant, Pro SE

Sworn to Subscribed before me, this 7th Day of DECEMBER, 2014

Camille Haygood
Notary

04/20/2018
my Commission Expires



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 17, 2014

To: Mr. Ray Roger Rivers, GDC94935, Forsyth County Jail, PO Box 1248, Forsyth, Georgia 31029

Case Number: Lower Court: County Superior Court

Court of Appeals Case Number and Style:

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

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

DEAR Clerk

12-11-14

I am writing in regards of appearing a motion to correct void sentence that was denied in the Jones County Court on November 13th 2014.

To my understanding there is a deadline on an appeal process so on November 20th 2014 I mailed the Clerk in Jones Co. a notice of appeal asking them to forward documents to Appeals Court. I also ask them for attorney to help with appeal, was told to write Jones Public Defender for one which I've write them.

While writing on response I was transferred from Calhoun State Prison to the Monroe County Jail for court on Friday change I didn't know what to do, upon arriving here today I've write the Jones County Public Defender's office explaining my situation so I can appeal.

Enclosed is a copy of letter that I write Jones County Public Defender so I'm waiting on response from them. DID NOT HAVE A lawyer for hearing on motion, may have to apply for one, for appeal.

Any and all help on making appeal's deadline would very much be appreciated, know nothing about appeal's.

Thank you very much +
GOD BLESS

Ray Roger Rous # 94935
Monroe County Jail

P.O. Box 12418

Forsyth GA 31029

RECEIVED IN OFFICE
2014 DEC 16 AM 11:18
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

1914-15

The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting.

Mr. J. H. Smith, Mr. W. B. Jones, Mr. T. R. Brown, Mr. C. D. White, Mr. E. F. Green, Mr. G. H. Black, Mr. I. J. Grey, Mr. K. L. Blue, Mr. M. N. Red, Mr. O. P. Yellow.

Mr. Q. R. Purple, Mr. S. T. Orange, Mr. U. V. Pink, Mr. W. X. Light, Mr. Y. Z. Dark, Mr. A. B. Gold, Mr. C. D. Silver, Mr. E. F. Bronze, Mr. G. H. Iron, Mr. I. J. Steel.

Mr. K. L. Copper, Mr. M. N. Lead, Mr. O. P. Zinc, Mr. Q. R. Tin, Mr. S. T. Nickel, Mr. U. V. Cobalt, Mr. W. X. Manganese, Mr. Y. Z. Magnesium, Mr. A. B. Calcium, Mr. C. D. Potassium.

Mr. E. F. Sodium, Mr. G. H. Chlorine, Mr. I. J. Fluorine, Mr. K. L. Bromine, Mr. M. N. Iodine, Mr. O. P. Phosphorus, Mr. Q. R. Sulfur, Mr. S. T. Selenium, Mr. U. V. Tellurium, Mr. W. X. Arsenic.

Mr. Y. Z. Antimony, Mr. A. B. Bismuth, Mr. C. D. Vanadium, Mr. E. F. Chromium, Mr. G. H. Manganese, Mr. I. J. Iron, Mr. K. L. Cobalt, Mr. M. N. Nickel, Mr. O. P. Copper, Mr. Q. R. Zinc.

Mr. S. T. Cadmium, Mr. U. V. Mercury, Mr. W. X. Silver, Mr. Y. Z. Gold, Mr. A. B. Platinum, Mr. C. D. Palladium, Mr. E. F. Rhodium, Mr. G. H. Ruthenium, Mr. I. J. Rhenium, Mr. K. L. Osmium.

Mr. M. N. Iridium, Mr. O. P. Palladium, Mr. Q. R. Silver, Mr. S. T. Gold, Mr. U. V. Platinum, Mr. W. X. Nickel, Mr. Y. Z. Cobalt, Mr. A. B. Iron, Mr. C. D. Chromium, Mr. E. F. Vanadium.

Mr. G. H. Manganese, Mr. I. J. Iron, Mr. K. L. Cobalt, Mr. M. N. Nickel, Mr. O. P. Copper, Mr. Q. R. Zinc, Mr. S. T. Cadmium, Mr. U. V. Mercury, Mr. W. X. Silver, Mr. Y. Z. Gold.

Mr. A. B. Platinum, Mr. C. D. Palladium, Mr. E. F. Rhodium, Mr. G. H. Ruthenium, Mr. I. J. Rhenium, Mr. K. L. Osmium, Mr. M. N. Iridium, Mr. O. P. Palladium, Mr. Q. R. Silver, Mr. S. T. Gold.

RECEIVED IN OFFICE
2014 DEC 17 PM 3:45
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Michael Morza Kufis
GDC No. 100788776
Riverbend Correctional Facility
198 Laying Farm Road
Milledgeville, GA 31061
14 December, 2014

ATTN: Tort Claims Division
Court of Appeals of Georgia
417 Trinity Avenue, SW, Suite 501
Atlanta, GA 30334

IN RE: Georgia Tort Claims Act Request
SUBJECT: Deprivation of Property By Court of Appeals (CA No. A13D0332 & A13A2218)

Madam or Sir:

On or about May, 2013, I filed an Application for Discretionary Appeal (Case No. A13D0332) in regards to errors of law committed in an action pending in Walton County Superior Court. On 07 May, 2013, ATT No. 2 shows that my application was granted.

ATT No. 2 is a record showing that my inmate account was frozen for \$300 in regards to the processing of the Application. Thereafter in accordance with the instructions of ATT No. 1, which is consistent with the mandates of O.G. 4, 885-6-35 and 42-12-8 requiring inmates to follow the discretionary appeal process I initiated a direct appeal of Case No. A13D0332.

The latter mentioned direct appeal "was identified" (Case No. A13A2218, ATT No. 3 is the ruling in the case and evidences that it was in my favor.

ATT No. 4 is the name of the case which previously states "Costs paid in the Court of Appeals: \$300"

On or about November, 2014, I was forced by Stephen E. Easten, Clerk of the Court of Appeals of Georgia, to pay the \$300 filing fee contrary to the circumstance of the case's resolution and applicable authority on the subject.

Both O.C.G. 2-53-9-15-1 and 5-6-5 mandate that the losing party of an action or appeal be responsible for court costs in said matters. In this incident, ultimately being a ruling against a Superior Court Judge and State of Georgia, it is obvious that a statute of exemption exists for them in this matter warranting my not having to pay the \$300 under the circumstances.

WHEREFORE because Stephen E. Easten, allegedly acting in behalf of Georgia's Court of Appeals has deprived me of \$300 due to the negligence which has resulted in an additional cost of approx. \$15 for service this complaint this agency must reimburse me \$315.00 for said torts.

Executed this 14 day of December, 2014
~~Michael Thomas Kyris~~
151 Michael East



Entered 5/20/13

EDUCATION
JENKINS CORRECTIONAL CENTER

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

Attachment No. 2

HOLLY K.O. SPARROW
CLERK/ COURT ADMINISTRATOR

May 08, 2013

RECEIVED
(404) 656-8450

MAY 13 2013

**WARDEN'S OFFICE
JENKINS CORRECTIONAL CENTER**

Mr. RALPH KEMP
WARDEN
JENKINS CORRECTIONAL CENTER
3404 KENT FARM DRIVE
MILLEN, GA 30442

RE: MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al

GDC # 1000788776 -100-C APPLICATION # A13D0332

Dear Warden KEMP :

Please be advised that the above referenced individual, as identified by inmate number, is a prison inmate in custody in your facility. This notice is being given to you as required by OCGA Sections 42-12-4 (2) (A) & (B): The amount of costs due to the Court of Appeals of Georgia for filing this action is \$300.

Under OCGA Sections 42-12-4 (3) (A) & (B) you should immediately freeze the prisoner's inmate account until the \$300 filing cost has accumulated and forward that amount to the Clerk of this Court for payment of filing cost, whereupon the freezing of the account should be terminated.

If you have any questions regarding this matter, please feel free to contact me. Thank you in advance for your anticipated cooperation.

Sincerely,

HOLLY K.O. SPARROW
Administrator/Clerk
Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATTACHMENT No. 1

ATLANTA, May 07, 2013

The Court of Appeals hereby passes the following order

A13D0332. MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al .

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

LC NUMBERS:

NONE



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, May 07, 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.*

Hally K. O. Sparrow

, Clerk.

**Court of Appeals
of the State of Georgia**

Attachment No. 3

ATLANTA, December 16, 2013

The Court of Appeals hereby passes the following order:

A13A2218. RUFUS v. OZBURN et al.

Michael Rufus filed this discretionary appeal from the trial court's order denying his request to proceed in forma pauperis in a civil action that he filed against Judge Samuel D. Ozburn, the Superior Court of Walton County, and the State of Georgia. Rufus alleges, and the appellees concede, that the trial court denied the request to proceed in forma pauperis without holding a hearing pursuant to OCGA § 9-15-2 (b).

However, it appears from the appellate briefs that the underlying case is a petition for writ of mandamus/prohibition which is based on various alleged actions or inactions on the part of Judge Ozburn while he was presiding over a criminal case in which Rufus was a defendant. In an unpublished opinion, we recently affirmed Rufus's convictions in the criminal case. See *Rufus v. State* (Case No. A13A1416, decided September 30, 2013). As a copy of the petition was not included in the record in the present appeal, we are unable to ascertain whether the specific claims in the underlying action are moot as a result of our decision in *Rufus*, supra. Furthermore, the merits of the underlying action are not before this Court for review.

Accordingly, the trial court's order denying the request to proceed in forma pauperis is vacated, and the case is remanded to the trial court for the purpose of determining whether the claims in the case are moot in light of *Rufus*, supra. Should the trial court determine that any claims remain, the trial court shall hold a hearing pursuant to OCGA § 9-15-2 to determine the merits of Rufus's request to proceed in forma pauperis and affidavit of indigence. See *Boyd v. John Galt Holdings, LLC*, 318 Ga. App. 866, 868-872 (2) (736 SE2d 459) (2012).



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/16/2013*

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

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

Stephen E. Castle
_____, Clerk.

REMITTITUR

Attachment No. 4

Court of Appeals of Georgia

Atlanta, January 21, 2014

Case No. A13A2218. MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE et al..

Upon consideration of this case, which came before this Court on appeal from the Superior Court of Walton County, this Court rendered the following decision:

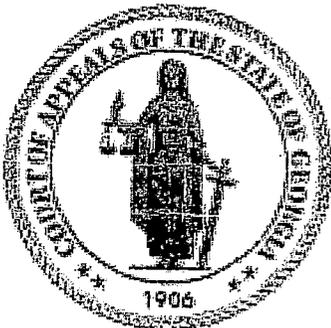
Appeal remanded.

Barnes, P. J., Miller and Ray, JJ., concur.

LC NUMBERS:
NONE



Costs paid in the Court of Appeals: \$300



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, February 26, 2014.

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

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

Stephen E. Castle, Clerk.

FILED IN OFFICE
CLERK SUPERIOR COURT
WALTON COUNTY, GA
2014 FEB 28 PM 1:27
MATHY K. TROST, CLERK

(Certified mail)

COPY SENT TO

Michael Alonza Rufus

Steve
see party

Case Management

General Docket	Lower Court	Party/Attorney	Filings	Judgment	Certiorari	Remittitur	Notes	Case History	
Case Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al								
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN ET AL								
Case Number	A13D0332								
Assigned Judge:	J. Christopher J. McFadden	Assigned Division:	4	Short Number:	96-028	Assignment Type:	System		
Panel:	P. J. Sara L. Doyle, J. Christopher J. McFadden, J. Michael P. Boggs						Opinion Status:	ND	
Docket Date:	04/13/2013	Term:	A13	Docket Calendar:	0913	Status:	F	Notes:	Yes
Date:	05/08/2014	User:	averak						
-First payment sent in the amount of \$63.15 on 06/04/2013, receipt # 8557.									
- Second payment sent in the amount of \$23.25 on 05/08/2014, receipt # 110860. Paid \$86.40 in total for fees as of today 05/08/2014.									
Date:	10/23/2014	User:	averak						
Third and final payment received. \$213.60 paid by Ms. Crystal M. Rufus. Sister of pro-se party.									
Add a Note									

[Return to Search](#)

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Send letter from Steve
re: fees?

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	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al			
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN ET AL			
Case Number	A13D0332			
Assigned Judge:	J. Christopher J. McFadden	Assigned Division:	4	Short Number: 96-028
		Assignment Type:	System	
Panel:	P. J. Sara L. Doyle, J. Christopher J. McFadden, J. Michael P. Boggs			Opinion Status: ND
Docket Date:	04/13/2013	Term:	A13	Docket Calendar: 0913
		Status:	F	Notes: Yes

Docket Notices

[View Attorney Docket Notice](#) [Regenerate Docket Notices](#)

[Print Case Info Sheet](#) [Print Attorney Summary Sheet](#)

Criminal or Civil? Civil Criminal

Classification PRO SE MOTIONS - 077

Docket Calendar: 0913 Oral Argument Granted:

Costs Paid

Description:	Case Filing Fee	Paid By:	GEORGIA DEPARTMENT OF CORRECTIONS	Refunded:	<input type="checkbox"/>
Date:	06/04/2013	Amount:	63.15	Receipt #:	8557
		Payment Method: Check/Other			

Description:	Case Filing Fee	Paid By:	GEORGIA DEPARTMENT OF CORRECTIONS	Refunded:	<input type="checkbox"/>
Date:	05/08/2014	Amount:	23.25	Receipt #:	110860
		Payment Method: Check/Other			

Description:	Case Filing Fee	Paid By:	Crystal M. Rufus	Refunded:	<input type="checkbox"/>
Date:	10/23/2014	Amount:	213.60	Receipt #:	111987
		Payment Method: Check/Other			

Warden Letter Sent

[Send Warden Letter](#)

Pauper's Affidavit Filed

Supreme Court Case Number

Case Associations

This case is a Main case and has no Cross or Companion cases.

This case has no Related (RE) cases.

Judge Assignment History

Judge	Short Number	Assignment Type	Date
J. Christopher J. McFadden	96-028	System	04/18/2013

Show Voting Path

Disposed By Central Staff

Drafted Date

Circulation Started Date

Circulation Ended Date

Central Staff

Assigned To: Brantlz Assigned Date: 04/18/2013 Completed Date: 05/03/2013

[Return to Search](#)

Michael Rufus

BAR No. 100078876

Riverside (Cooperational Facility)

198 Laying Farm Road

Millidgeville GA 31061

18 December, 2014

Stephen E. Caster, Clerk

Court of Appeals of Georgia

47 Trinity Avenue, S.W., Suite 501

Atlanta GA 30331

IN RE: CH No. A13D0332

Madam or Sir:

It is my understanding that my family submitted you a payment totaling \$300 for an alleged indebtedness I owed in CH No. A13D0332.

Attached you will find records of Georgia's Department of Corrections which indicate that \$86.40 had already been mailed to you.

I am requesting that you check your records in this matter and if you received the \$86.40 in addition to \$300 that the additional over payment be refunded.

I am thanking you in advance for your assistance

Michael Rufus

RECEIVED IN OFFICE
2014 DEC 22 PM 4:15
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

CONFIDENTIAL
Offender GRIEVANCE FORM (Facsimile)

11-19-14
Attachment 1
SOP IIB05-0001

INSTITUTIONAL STAFF USE ONLY	
OFFENDER NAME <i>Rafis, Michael</i>	OFFENDER NUMBER <i>1000755746</i>
INSTITUTION <i>Riverbend</i>	GRIEVANCE NUMBER <i>134176</i>
DATE COMPLETED FORM RECEIVED FROM OFFENDER	BY
DATE APPEAL RECEIVED	BY

THIS FORM MUST BE COMPLETED IN INK. YOU MUST INCLUDE SPECIFIC INFORMATION CONCERNING YOUR GRIEVANCE TO INCLUDE DATES, NAMES OF PERSONS INVOLVED, AND WITNESSES.

DESCRIPTION OF INCIDENT:

Contrary to my assumption that the \$886.40, which had been held for State Court Filing Fee in Case # A1300332 in my inmate acct had been used to discharge institutional obligations. I am requesting that the amount of \$886.40 which was identified as being held for institutional obligations, therefore the \$886.40 which was identified as being held for institutional obligations should be released to my use.

RESOLUTION REQUESTED:

I am requesting that the \$886.40 which was withheld for State Court Filing Fee in Case # A1300332 be released or applied in my account for my use. I am also requesting please provide me with documents showing its disposition and where.

Michael Rafis

18 November, 2014

OFFENDER Signature

Date

Is this grievance being filed within the 10 day time limit? Please answer Yes or No. If the answer is No, please explain why.

WARDEN'S/SUPERINTENDENT'S GRIEVANCE RESPONSE

Offender's Name: **Michael Rufus** Grievance Number: 186199
GDC #: **1000788776** Facility: **Riverbend C.F.**

RESPONSE TO GRIEVANCE:

GDC Inmate Trust Accounts was contacted. ~~Two checks have been sent to the Georgia Court of Appeals to be credited toward the filing fee for case # A13B0332. Check #106826 in the amount of \$63.15 was sent on 5-31-13 and check #119961 in the amount of \$23.25 was sent on 5-1-14.~~ Your refund needs to come from the Court.



Warden's/Superintendent's signature

12/16/14

(date)

I ACKNOWLEDGE RECEIPT OF THE ABOVE RESPONSE ON THIS DATE:

Offender's signature

(date)

You have seven (7) calendar days within which to appeal this Response to your Grievance Coordinator. If the last day is not a business day at your institution, you may file it on the next day that is a business day.

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	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al		
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN ET AL		
Case Number	A13D0332		
Assigned Judge:	J. Christopher J. McFadden	Assigned Division:	4 Short Number: 96-028 Assignment Type: System
Panel:	P. J. Sara L. Doyle, J. Christopher J. McFadden, J. Michael P. Boggs Opinion Status: ND		
Docket Date:	04/13/2013	Term:	A13 Docket Calendar: 0913 Status: F Notes: Yes

Docket Notices

[View Attorney Docket Notice](#) [Regenerate Docket Notices](#)

[Print Case Info Sheet](#) [Print Attorney Summary Sheet](#)

Criminal or Civil? Civil Criminal

Classification PRO SE MOTIONS - 077

Docket Calendar: 0913 Oral Argument Granted:

Costs Paid

Description: Case Filing Fee	Paid By: GEORGIA DEPARTMENT OF CORRECTIONS	Refunded:
Date: 06/04/2013	Amount: 63.15 Receipt #: 8557	Payment Method: Check/Other
Description: Case Filing Fee	Paid By: GEORGIA DEPARTMENT OF CORRECTIONS	Refunded:
Date: 05/08/2014	Amount: 23.25 Receipt #: 110860	Payment Method: Check/Other
Description: Case Filing Fee	Paid By: Crystal M. Rufus	Refunded:
Date: 10/23/2014	Amount: 213.60 Receipt #: 111987	Payment Method: Check/Other

Warden Letter Sent

[Send Warden Letter](#)

Pauper's Affidavit Filed

Supreme Court Case Number

Case Associations

This case is a Main case and has no Cross or Companion cases.

This case has no Related (RE) cases.

Judge Assignment History

Judge	Short Number	Assignment Type	Date
J. Christopher J. McFadden	96-028	System	04/18/2013

Show Voting Path

Disposed By Central Staff

Drafted Date

Circulation Started Date

Circulation Ended Date

Central Staff

Assigned To: Brantiz Assigned Date: 04/18/2013 Completed Date: 05/03/2013

[Return to Search](#)

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COURT OF APPEALS

47 Trinity Avenue, S.W.

Suite 501

Atlanta, GA 30334

(404) 656-3450

Receipt No.

108557

DATE 6-4-13

RECEIVED OF Georgia Department of Corrections

WE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

BRIEF OF APPELLANT _____

ENUMERATION OF ERRORS _____

WITHDRAWAL FEE _____

PHOTOCOPIES _____

ADMISSION FEE _____

CERTIFICATION FEE _____

APPLICATION COST ✓ Female account

OTHER _____ withdrawal
10.00 fee

AMOUNT \$ 63.15
CK # 106826

CASE NUMBER M1300332

KA
CLERK

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

Receipt No. 111987

DATE 10-23-14

RECEIVED OF Crystal M. Rufus

WE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

- BRIEF OF APPELLANT _____
- ENUMERATION OF ERRORS _____
- WITHDRAWAL FEE _____
- PHOTOCOPIES _____
- ADMISSION FEE _____
- CERTIFICATION FEE _____
- APPLICATION COST ✓ _____
- OTHER _____

AMOUNT \$ 213.00

Money order #
20578136894

CASE NUMBER A13D0332

DA

CLERK

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

Receipt No. **110860**

DATE 5-08-14

RECEIVED OF Georgia Department of Corrections

WE ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

BRIEF OF APPELLANT _____

ENUMERATION OF ERRORS _____

WITHDRAWAL FEE _____

PHOTOCOPIES _____

ADMISSION FEE _____

CERTIFICATION FEE _____

APPLICATION COST _____

OTHER _____

AMOUNT \$ 23.25
CK# 119961

CASE NUMBER A13120332

IC.A
CLERK

[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	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE		
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE		
Case Number	A14A0051		
Assigned Judge:	J. William M. Ray	Assigned Division:	2
Short Number:	98-005	Assignment Type:	System
Panel:	P. J. Anne Elizabeth Barnes, J. M. Yvette Miller, J. William M. Ray		
Opinion Status:	C		
Docket Date:	08/26/2013	Term:	J14
Docket Calendar:	0114	Status:	R
Notes:	Yes		

[Docket Notices](#)

[View Attorney Docket Notice](#) [View Lower Court Docket Notice](#) [Regenerate Docket Notices](#)

[Print Case Info Sheet](#) [Print Attorney Summary Sheet](#) [Print First Volume Judgment Sheet](#) [Print Record Summary Sheet](#) [Print Opinion Tracking Sheet](#)

Criminal or Civil? Civil Criminal

Classification PAUPERS AFFIDAVIT - 229

Docket Calendar: 0114 Oral Argument Granted:

No payments have been recorded for this case.

Costs for this case were transferred from its application.

[Send Warden Letter](#)

Pauper's Affidavit Filed

Supreme Court Case Number

Case Associations

This Case is Associated to a Main Case

Relationship To Main: CC

Cases Associated With This Case

Case Number	Case Style	Case Status	Relationship Type
A13A2218	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE et al.	R	MA

This case has no Related (RE) cases.

Application

Case Number: A13D0429

Case Style: MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al.

Judge Assignment History

Judge	Short Number	Assignment Type	Date
J. William M. Ray	98-005	System	08/26/2013

Show Voting Path

Disposed By Central Staff
Drafted Date 04/08/2014
Circulation Started Date 04/10/2014
Circulation Ended Date

Central Staff

This case has no Central Staff assignment

[Return to Search](#)

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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	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al.
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN ET AL.
Case Number	A13D0429
Assigned Judge: J. Christopher J. McFadden	Assigned Division: 4 Short Number: 96-036 Assignment Type: System
Panel: P. J. Sara L. Doyle, J. Christopher J. McFadden, J. Michael P. Boggs	Opinion Status: ND
Docket Date: 06/12/2013	Term: S13 Docket Calendar: 1013 Status: F Notes: No

Docket Notices

[View Attorney Docket Notice](#) [Regenerate Docket Notices](#)

[Print Case Info Sheet](#) [Print Attorney Summary Sheet](#)

Criminal or Civil? Civil Criminal

Classification PRO SE MOTIONS - 077

Docket Calendar: 1013 Oral Argument Granted:

No payments have been recorded for this case.

Warden Letter Sent

[Send Warden Letter](#)

Pauper's Affidavit Filed

Affidavit Filed Date

06/12/2013

Supreme Court Case Number

Case Associations

This case is a Main case and has no Cross or Companion cases.

Related (RE) Cases

Case Number	Case Style	Case Status
A13D0332	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al	F

Judge Assignment History

Judge	Short Number	Assignment Type	Date
J. Christopher J. McFadden	96-036	System	06/17/2013

Show Voting Path

Disposed By Central Staff

Drafted Date

Circulation Started Date

Circulation Ended Date

Central Staff

Assigned To: gaudios Assigned Date: 06/17/2013 Completed Date: 06/26/2013

[Return to Search](#)

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[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	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE et al.			
Short Style	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE ET AL.			
Case Number	A13A22118			
Assigned Judge:	J. William M. Ray	Assigned Division:	2	
Short Number:	98-107		Assignment Type:	System
Panel:	P. J. Anne Elizabeth Barnes, J. M. Yvette Miller, J. William M. Ray			
Opinion Status:	C			
Docket Date:	07/17/2013	Term:	S13	
Docket Calendar:	1113	Status:	R	
Notes:	No			

Docket Notices

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[Print Case Info Sheet](#) [Print Attorney Summary Sheet](#) [Print First Volume Judgment Sheet](#) [Print Record Summary Sheet](#) [Print Opinion Tracking Sheet](#)

Criminal or Civil? Civil Criminal

Classification PAUPERS AFFIDAVIT - 229

Docket Calendar: 1113 Oral Argument Granted:

No payments have been recorded for this case.

Costs for this case were transferred from its application.

[Send Warden Letter](#)

Pauper's Affidavit Filed

Supreme Court Case Number

Case Associations

This Case is a Main Case

Cases Associated With This Case

Case Number	Case Style	Case Status	Relationship Type
A14A0051	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN, JUDGE	R	CC

Related (RE) Cases

Case Number	Case Style	Case Status
A13D0332	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al	F
A13D0429	MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al.	F

Application

Case Number: A13D0332

Case Style: MICHAEL ALONZA RUFUS v. SAMUEL D. OZBURN et al

Judge Assignment History

Judge	Short Number	Assignment Type	Date
J. William M. Ray	98-107	System	07/17/2013

Show Voting Path

Disposed By Central Staff

Drafted Date 12/05/2013

Circulation Started Date 12/10/2013

Circulation Ended Date

Central Staff

This case has no Central Staff assignment

[Return to Search](#)

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COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS
December 22, 2014

To: Mr. Edward T. Ridley, GDC570139, Johnson State Prison, P.O. Box 344, Wrightsville, Georgia 31096
Docket Number: A14A1879 **Style:** Edward Tyrone Ridley 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. **The Certificate of Service must include the complete name and mailing address of each opposing party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. You must serve DA on the appeal.**
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: _____

In the motion to compel Fla. 2
sent that motion to a Fla lawyer allowed to
file for me in court and for you to compel
them the GA Court of Appeals.

So that court can answer that motion on
an emergency basis. So that is the correct
Certificate of service since Public Defender was
the filing party to whom I want this court to
compel him & only the court file to answer

The last motion is a Exhibit & only don't need
a cert of service but was attached when I mailed the
original to this court

12/9/14

I thank you
Edward P. Ridley, 520139

RECEIVED IN OFFICE
2014 DEC 17 PM 3:52
CLERK'S COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS, STATE OF GEORGIA

EDWARD T. RIDLEY

Bay Co.
Case No. 95-2544 Florida
for

STATE OF FLORIDA
CASE NO A14A 1879

MOTION TO COMPEL

RECEIVED IN OFFICE
20 DEC 17 PM 3:52
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

Petitioner respectfully moves His Honor the

to compel the State of Florida to respond to

Ridley motion to withdraw his July 29, 1996

contract for breach of contract in regards

to both Co Court of Appeals case A14A1879 and

regarding corp. case 18R-149 that was filed

or mailed to Public Defender Hermand, Lamore

panama city, Fla to mail back in October 2014

to file since FS. 943.043 was not completed

in Ridley Fla. Contract. Filed in good faith, this

1st day of Dec, 2014.

Respectfully Submitted

Edward T. Ridley, Esq. 570139

Mr. Edward T. Ridley, Esq. 570139

Johnson State Prison

P.O. Box 344

Wingtsville, Ga. 31096

RECEIVED IN OFFICE

2014 DEC -3 PM 3:17

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GEORGIA

~~Edward T. Ridley~~

Certificate of service

I, Edward T. Ridley, do hereby certify that I have on the below date served a carbon copy of the foregoing motion To Compel on the the below by placing same in properly addressed stamped envelope to secure first class delivery upon

Office of
Herman D. Laramore
Public Defender
Fourteenth Judicial Circuit
P.O. Box 580

PANAMA City, Fla. 32404-6580

Executed this 1st day of December 2014

Sincerely
Mr. Edward T. Ridley, 590139
Mr. Edward T. Ridley, 590139
Pro'se Appellant
Johnson State Prison
P.O. Box 344
Wrightsville, Ga. 31096

THE COURT OF APPEALS, STATE OF GEORGIA

RIDLEY V. THE STATE NO CASE NO. ASSIGNED

From denial of Emergency Removot of Jurisdiction, OCGA 17-9-4, Rule 33.10 that was denied Oct 31, 2014, mailed letter of Appeal / Nov. 13, 2014 sent this court copy you stamped filed Nov. 19, 2014, see attached motion to compel.

EMERGENCY MOTION TO COMPEL

Appellant, please, respectfully moves this Honorable

Court to compel the Clerk of Superior Court to forward you the record on appeal in above motion and notice of appeal timely filed as Ridley provided this Court with copy. As this Court know from case no 1414179, the state will claim Ridley didn't file this appeal timely. He pray this court will demand they send record, and answer brief filed that Ridley have mailed this court pursuant to rules of court. filed in good faith. This 1st day of December 2014

Respectfully Submitted,
X ~~Edward L. Ridley~~ 5/10/139

Mr. Edward L. Ridley, 570139
Johnson State Prison
P.O. Box 344
Winstonsville, Ga. 31096

Pages 17 & C

~~Edward L. Ridley~~

PROOF OF SERVICE

I, Edward T. Ridley, 590139, Prose, do hereby certify that on the date below I served in carbon copy of the foregoing motion to compel, by placing same in properly addressed stamped envelope to secure first class delivery upon

Mrs. Sean Rogers
Clerk of Superior Courts
P.O. Box 7470 by mailing deliver
same to grandmother to hand deliver

Cordelia Ca. 31015
Executed this 1st day of December 2014

Sincerely,
Edward T. Ridley, 590139,
Prose Appellant
Johnson State Prison
P.O. Box 344
Winghamsville, Ca. 31096

Copy
Exhibit A.

IN THE SUPERIOR COURT OF CRISP COUNTY
STATE OF GEORGIA

RIDLEY V. THE STATE, 13R-149

EMERGENCY MOTION TO COMPEL

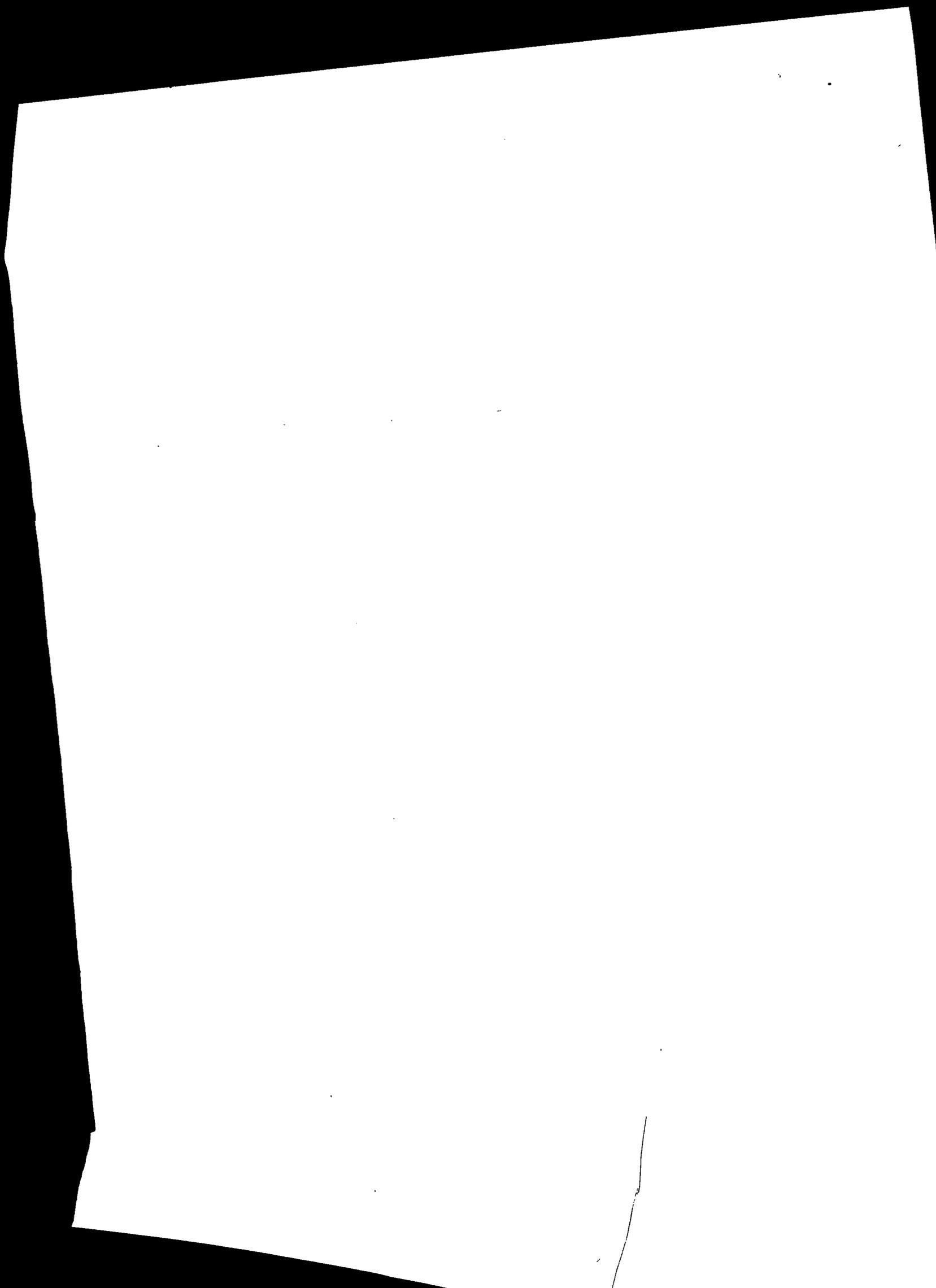
Petitioner, prose, respectfully moves this Honorable Court to Compel the Clerk of Court to forward All records from denial of Emergency Permanent Injunction/OC.G.A. 179-4, Rule 33:10 that was denied by Judge Hughes on October 31st 2014. Not to omit anything from record that have been filed to date in above case. Pursuant of Rules of Court and Appellant Procedure. Filed in good faith
Executed this 13th day of November 2014

Respectfully Submitted
Mr. Edward J. Ridley 570139
Mr. Edward T. Ridley 570139
Schreven State Prison
P.O. Box 344
Wrightsville, Ga. 31096

Correct Copy
Revised February
P.O. Box 5510
Culpeper, Ga. 31010.

Page 1 of 1

Page C.



COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 22, 2014

To: Ms. Linda Marie Smith, GDC2014070991 Chatham County Sheriff's Complex, 1074
Carl Griffin Drive, Unit B, Savannah, Georgia 31401

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

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

12/14/2014

Dear Sir or Madam,

My name is Linda Marie Smith, I'm

a black registered nurse who has been falsely imprisoned at Clatham

County Detention Center. None of the warrants are good, forged. I search never signed

I wrote before about how I am being denied bail. On 8/12/14

Abbot (Judge) and Sheila Burgess (attorney) I was denied bail

Judge Abbot stated "I had erratic behavior and was a threat

to myself and others" and she wanted me to have a forensic evaluation.

she never ordered. She keeps denying me bail on those grounds.

never met Louisa Abbot but I do have ongoing dispute with

her and Anthony Abbot over 7000 water lines contract and overcharging

for water. Yes they own Consolidated Utilities Incorporated that services

my neighborhood. I have owned & lived in my home since 1970 and

never had a problem with my water lines.

I have never had a mental health history or criminal history.

I'm 47 years old and never saw what I call a difference of opinion

a delusional disorder, and I have worked mental health,

I need to get home to seal my home from intruders it was

robbed again while being falsely imprisoned.

Now I passed the forensic evaluation and Louisa Abbot is still

denying a bond based on recommendation of talking a pill to see things

their way. Enclosed is a copy of the evaluation.

Police have confessed to having a tape of me being raped but refused

to let me see it because I was asleep on the tape and can't identify the rapist

They also confessed that people were in my home while it burned and they

have confessions. Yet the policeman on the scene sent me for a forensic

all and all they wanted to discuss is my rape.

RECEIVED IN OFFICE

2014 DEC 19 PM 3:21

CLERK OF SUPERIOR COURT OF APPEALS OF GA

Back to the evaluation I would explain the locking of the gate had he asked. (refer to the evaluation) Officer who initiated this mess was the harasser. And after the district attorney's secretary told me to call another policeman and have him arrested for stealing the gun he called out the crisis team again. That's when I locked the gate in yard because officer clearly refused to return weapons.

He returned on 7/16/2014 with 2 warrants that were clearly forged and 3rd for search was never signed. Now I have a complaint in 2010 on this same officer or his buddy for banging on my door. So because I disagree with the officer he called this delusional disorder.

Not only do I see this denial discriminatory, I see it as revenge. People with worst crimes, revolving door criminals have bailed but me.

I easily see how criminals use mental health as a way out but I don't need a happy pill to differentiate right from wrong. Or delusional from difference of opinion.

On 7/12/13/14 some girl took a flight off of the top rail shackled I wrote district attorney about my medical condition and my life being ~~in~~ endangered. No response and my oral tongueing of a real area.

I passed the evaluation. If he wanted me on medication or if he saw a real problem he would have referred me to jail psychiatrist but he only recommends that I might benefit from a pill. Never ordered one.

In my 47 years of life I have never been in trouble with the law or had any delusional disorders. I shot at intruders who raped me in my home over a time span and only hit walls. The officers even told me that I missed.

I have complained and I ~~think~~ ^{can't} I see her rationale for the hold. Now she has switched the arraignment on 7/1/2014 to status

conference hearing. Can you please send someone to attend that hearing. I'm never going to get out of here if she continues to be the judge.

I have done everything the court has asked and I'm out of money, time, and I passed the evaluation. Don't you think this odd for someone with no criminal history or mental history? I have been a victim and I continue to be victimized by the very system I have worked for. On 12/22/2014 it would be 5 months I have been falsely imprisoned and my parents are up in age and needs me.

My current peers, neighbors, and friends are waiting to testify that I have never been in trouble, yes I'm sane, and yes I'm a victim.

I've heard of people being falsely imprisoned but I never thought it would be me. I have been denied bail and passed on every hearing since 7/22/2014.

And the charges are fraudulent but nobody is listening. Enclosed is a copy of the evaluation, current charges, and plea for help.

- 1) Warrants were forged and left on wall of house
- 2) 3rd for search was never signed and apparently not justified
they are saying he had a probable for arrest on 7/10/2014 and underlined probable
- 3) Buddies that are officers who got revenge from complaint in 2010 on Sgt Eaton
- 4) Tammy Stokes (judge) signed or is accused of signing those warrants
- 5) Louisa Abbot (judge) is refusing to see the forgery of warrants, denying bail, and holding me without legal reason

illegal police procedure, lied about a signed search warrant, and forged warrants by

See all and assist me in getting some justice. They have held me

here for almost 5 months (nothing but a stall tactic to assist the

Hollywood actors I see around the jail and this was because I

blatantly refused to help them. I went to school to be a registered nurse

not an actress. I hate their money bought them this time to run

my life. Please help me. First ruling 9/8/2014, Second ruling 12/9/2014

and next massacre is 1/12/2015 which means I would have falsely

been imprisoned for almost 6 months based on lies and manipulation

of the law.

And after indictment can they switch charges? I thought they

had to add them or introduce them in trial.

Sincerely,

Judith Marie Smith

1074 Carl Griffin Drive Unit 18

Savannah, Georgia 31401

Inquire 912-652-7760

Inmate # 2014070991 code 7745 changed 6567

12/15/14 they changed the code to 7451

My parents have a background with the Hollywood actors in their youth

and concealed it from me. Now I'm happy for them but I loathe anyone

who uses money and power. And certainly if I thought I needed a pill to

see the world clearer I would ask somebody.

* Important *

Can you please return a copy of the enclosed package back

to me.

5 copies

Indictment No. CR 14-1785-J4
14CHM02650/X0126457
In the Superior Court of Chatham County, State of Georgia
JUNE TERM 2014

THE STATE OF GEORGIA

OFFENSE(S): MAKING A FALSE STATEMENT AND RECKLESS CONDUCT

VERSUS
LINDA SMITH

True BILL

*WITNESS(ES): ** See and Offered
Deputies not at the
indictment*
Stephen Eaton, Savannah Chatham
Metropolitan Police Dept.

Aug 6, 2014

Freddie Pearson
FOREPERSON

Meg Heap
District Attorney
Eastern Judicial Circuit
of Georgia

Filed in office this 6th day of
August, 2014

AARON WILES
ASSISTANT DISTRICT ATTORNEY

Kathy J. Berman
(Deputy) Clerk, Superior Court of
Chatham County, Georgia

Defendant, on _____ being in open court, pleads _____

Defendant _____ Attorney for Defendant _____

Defendant, on _____ being in open court, PLEADS GUILTY and waives the right to trial by jury; the presumption of innocence; the right to confront witnesses against oneself; the right to subpoena witnesses; the right to testify and to offer other evidence; the right to assistance of counsel during trial; the right not to incriminate oneself; and understands that by pleading not guilty or remaining silent and not entering a plea, one obtains a jury trial.

Defendant _____ Attorney for Defendant _____

We, the Jury, find the defendant

FOREPERSON DATE

THUMBPRINT(S) OF DEFENDANT
(left) (right)

ARN 10/6/14 @ 9:30

*Need forensic
Eaton Case*

RECORDERS COURT OF CHATHAM COUNTY IN SAVANNAH GEORGIA
- CRIMINAL DOCKET -

HON. HARRIS ODELL JUDGE

DOCKET NUMBER: 2014-07-0642-01

DEFENDANT:
LINDA MARIE SMITH
202 HOLIDAY CIRCLE

ORIGINAL DATE: 7/23/2014

SAVANNAH, GA 31419
DOB: 3/16/1967 SEX: F RACE: B

CRN: 140710072
DIN: X0126457
CO-DEF:

*Bond
Deferred
Preliminary
Hearing*

ATTORNEY(S):

* CONTINUANCE *

DEFENDANT 1 OF 1

1 ___/___/___ FOR _____
2 ___/___/___ FOR _____
3 ___/___/___ FOR _____

***** CHARGE(S) *****

CHARGE 1.
FALSE STATEMENTS & WRITINGS
STATUTE: 16-10-20
BY FALSE STATEMENTS AND WRITINGS (WARRANT SERVICE).

PLEA: _____ RULING: _____

CHARGE 2.
RECKLESS CONDUCT
STATUTE: 16-5-60
BY RECKLESS CONDUCT (WARRANT SERVICE).

PLEA: _____ RULING: _____

WITNESSES:
EUGENE JOHNSON

SPD

OTN: 88395798595

Recorders Court

NO TRACK HIST

PRELIM DATE: 8/7
POLICE REPORT DUE: 8/10

14CHM102050

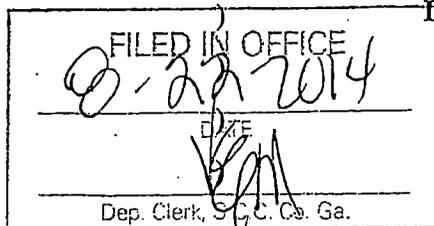
IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

LINDA SMITH,

Defendant.



Indictment No. CR14-1785-J4

Notice to Clerk of Superior Court: These Records contain criminal history information pursuant to O.C.G.A. Section 35-3-38 and access therefore should be restricted except by Court Order.

STATE'S DISCOVERY DISCLOSURE

Pursuant to O.C.G.A. 17-16-1, et seq., the State hereby INVOKES ITS RIGHT TO RECIPROCAL DISCOVERY INCLUDING ALIBI-RELATED DISCOVERY and provides the Defendant with the following attached material:

- Copy of indictment
- List of witnesses known to the State at this time (additionally, all persons listed within the indictment, police reports, crime lab reports, and other miscellaneous documents)
- Investigative reports (i.e. police reports, detective reports, property/evidence sheets)
- Copies of the following items (i.e. photos, DVDs, audio cassettes, etc...):
- Witness statements
- Recorder's Court Transcript
- Copy of scientific reports and summaries
- Defendant's GCIC history *no criminal history*
- Defendant's in-custody statements
- Co-conspirator's statements
- List of buildings or places, books, papers or documents the State intends to introduce at trial
- Notice of Recidivist Prosecution

- () Notice of Intent to Offer Evidence in Aggravation of Sentence
- () Copy of Defendant's convictions
- () Notice of Intent to Use Prior Conviction (10 years or older) for Impeachment
(Notice to Defense Counsel: State will use prior convictions for impeachment purposes if the

Defendant opens the door during trial.)

- () Notice of Intent to Introduce Similar Transactions

- (~~*)~~() Notice to Defense Counsel: Medical Records are available for you to inspect. Please call the DA's office to schedule a time to review the documents. *forensic evaluation 11/5/2014*
- () Copy of Brady material-if this item is not checked none was found, however you may inspect the file at a mutually agreeable time. *chaptered 2013 in 2010 Doctor comments about mother*

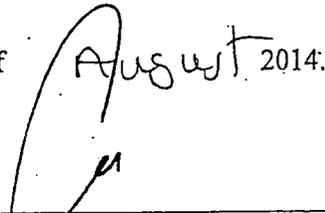
- () Other:

NOTICE: Any and all tangible evidence in the possession of the State but not in the physical possession of the District Attorney's Office is available for inspection by contacting the lead detective with the agency involved.

NOTICE: The State has attempted to list by name each witness that it may call at trial. However, the State hereby gives notice that it may call any witness named in any document provided in discovery whose name it may have inadvertently omitted from its witness list.

NOTICE: The State maintains an open file in this matter exclusive only of attorney work product.

Respectfully submitted this *22nd* day of *August* 2014.


 Aaron D. Wiles, Jr.
 Assistant District Attorney
 Eastern Judicial Circuit
 Georgia Bar No. 727537

Office of District Attorney
 Eastern Judicial Circuit Of Georgia

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

)

)

Indictment No. CR14-1785-J4

v.

)

LINDA SMITH,

)

Defendant.

)

CERTIFICATE OF SERVICE

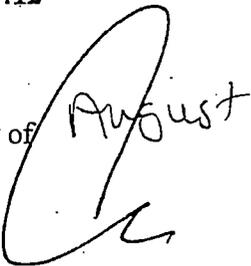
I hereby certify that I have served a copy of all foregoing pleadings, foregoing discovery and all attachments thereto upon defense counsel, by:

() placing a copy of the same in a properly addressed envelope in the U.S. Mail, with sufficient postage thereupon:

(X) ~~via hand delivery~~ a copy to:

RYAN RAINES → Blacklist Actor
Raymond Reddington
OFFICE OF THE PUBLIC DEFENDER
PO BOX 9176
SAVANNAH, GA 31412

Respectfully submitted this 22nd day of August 2014.



Aaron D. Wiles, Jr.
Assistant District Attorney
Eastern Judicial Circuit
Georgia Bar No. 727537

Office of District Attorney
Eastern Judicial Circuit Of Georgia

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA)

) Indictment No. CR14-1785-J4

v.)

LINDA SMITH,)

Defendant.)

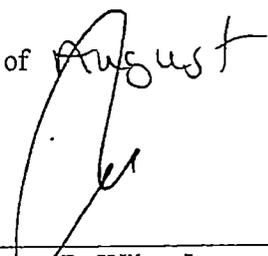
STATE'S LIST OF TANGIBLE EVIDENCE

Notice to Defense Counsel: Please see the Property/Evidence Sheet (attached to police report/
investigative report) for detail information.

1. FIREARM
2. SPENT AMMUNITION CASINGS
3. AMMUNITION

Respectfully submitted this

22nd day of August 2014.



Aaron D. Wiles, Jr.
Assistant District Attorney
Eastern Judicial Circuit
Georgia Bar No. 727537

Office of District Attorney
Eastern Judicial Circuit Of Georgia

The above witnesses may be called at trial. Additional witnesses will be added as their names become available.

This 21st day of August, 2014.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a few smaller strokes.

Eastern Judicial Circuit
District Attorney's Office

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

State of Georgia

vs.

Linda Smith
Defendant(s).

Indictment No.
CR14-1785J4
Making a False Statement & Reckless
Conduct

LIST OF WITNESSES

1. Apo Stephen Eaton, Lead Law Enforcement 01419
Savannah Chatham Metropolitan Police Dept.
2. Matthew Cross, Law Enforcement 11024
Savannah Chatham Metropolitan Police Dept.
3. Ofc Stephen Dupuis, Law Enforcement 61277
Savannah Chatham Metropolitan Police Dept.
4. Kevin Fikes, Law Enforcement 10760
Savannah Chatham Metropolitan Police Dept.

*Property
Report
Jun*

Property

3036

5. Sgt. Michelle Halford, Law Enforcement 04483
S C M P D

6. Cpl. Eugene Johnson, Law Enforcement 1851
Savannah Chatham Metropolitan Police Dept.

7. Christopher Samatis, Law Enforcement 11244
Savannah Chatham Metropolitan Police Dept.

~~8. Bennett Vanhorn, Law Enforcement 11410~~
~~Savannah Chatham Metropolitan Police Dept.~~

No report (why?)

9. Cemon Young, Law Enforcement 11611
Savannah Chatham Metropolitan Police Dept.

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

)

)

Indictment No. CR14-1785-J4

v.

)

LINDA SMITH,

)

Defendant.

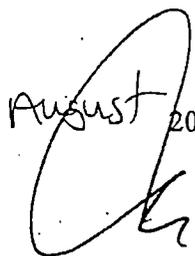
)

STATE'S DEMAND FOR RECIPROCAL DISCOVERY

Pursuant to Chapter 16, Title 17, Official Code of Georgia Annotated (1994 Supp.), the State hereby gives the defense notice of the following should the defense invoke the provisions of Chapter 16, Title 17 Official Code of Georgia Annotated (1994 Supp.):

- State's Demand for Discovery.
- State's Demand for Disclosure of Witness Identities and Information.
- State's Demand for Witness Statements.
- State's Demand for Discovery Regarding Alibi.

Respectfully submitted this *22nd* day of *August* 2014.



Aaron D. Wiles, Jr.
Assistant District Attorney
Eastern Judicial Circuit
Georgia Bar No. 727537

Office of District Attorney
Eastern Judicial Circuit Of Georgia

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

)

Indictment No. CR14-1785-J4

)

v.

)

LINDA SMITH,

)

Defendant.

)

STATE'S DEMAND FOR DISCOVERY

NOW COMES the State of Georgia in the above-styled case and hereby demands, pursuant to Section 17-16-4(b)(1) and (2), Official Code of Georgia Annotated (1997 Ed.), that the defense furnish the following:

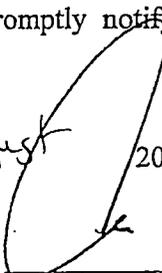
1. A list of any buildings or places which the defense intends to introduce as evidence in the defense case in chief or rebuttal.

2. Copies or photographs of any results or reports of physical or mental examinations and of scientific tests or experiments, including an summaries of the basis of expert opinions rendered in any reports, which are in the possession, custody, or control of the defense which the defense intends to introduce into evidence during the defense's case in chief or rebuttal.

3. Make available for inspection and copying by the State any and all documentary and tangible evidence (not limited to documents, photographs, tangible objects, audio and visual tapes, films and recordings) in the possession, custody, or control of the defense which the defense intends to introduce into evidence during the defense's case in chief or rebuttal.

MOREOVER the State demands that the defense promptly notify it of and make available any additional evidence when the defense learns of it.

Respectfully submitted this 22nd day of August 2014.



Aaron D. Wiles, Jr.
Assistant District Attorney
Eastern Judicial Circuit
Georgia Bar No. 727537

Office of District Attorney
Eastern Judicial Circuit Of Georgia

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

)

)

Indictment No. CR14-1785-J4

v.

)

LINDA SMITH,

)

Defendant.

)

STATE'S DEMAND FOR WITNESS STATEMENTS

NOW COMES the State of Georgia in the above-styled case and hereby demands, pursuant to Section 17-16-7, Official Code of Georgia Annotated (1997 Ed.), that the defense furnish any statement of any witness that is in the possession, custody, or control of the defendant or the defendant's counsel that relates to the subject matter concerning the testimony of any witness that the defense intends to call as a witness at trial or at any post-indictment pretrial evidentiary hearing.

MOREOVER the State demands that the defense promptly notify it of and make available any additional witness statements when the defense learns of them.

Respectfully submitted this *22nd* day of *August* 2014.



Aaron D. Wiles, Jr.
Assistant District Attorney
Eastern Judicial Circuit
Georgia Bar No. 727537

Office of District Attorney
Eastern Judicial Circuit Of Georgia



SAVANNAH-CHATHAM METRO POLICE

Interim Chief Julie Tolbert

Scopies

November 3, 2014

Ms. Linda Smith
1074 Carl Griffin Drive
Unit 1 - B
Savannah, Ga. 31401

Ref: OPS # 2141101

Ms. Smith,

The Internal Affairs Office received your complaint on November 3, 2014;

In reviewing your complaint, the Officers had sufficient probable cause for your arrest. Therefore, you would need to speak with your Attorney regarding your legal issues. If you have any further questions, please give me a call at 912-691-6237.

Sincerely,

Sergeant J. Wright
SCMPD - Internal Affairs
601 East 66th Street Suite 100
Savannah, Ga. 31405

Dear Sir or Madam,

This letter is in response to the following actions occurring on 7/10/16/2014. The third warrant for search wasn't signed before entering the residence. 2 warrants left at the address on the wall day of search was forged. And see how they protect their white officers. I was harassed and labeled because white officer Johnson put in her report she thought I was insane with physical evidence present on the site. Well the officer who initiated this on 7/10 who took the gun but is not an officer also was playing cop on ^{another date} ~~this particular date~~ stating, "I don't think you are insane!" And their engines are full speed ahead. Next arraignment is on 1/2/2015. Jury trial is what I am requesting. Not Guilty is plea. There was no criminal verification they are trying to connect it to gun application 2012. Enclosed a copy

2 warrants were forged site misspells her name
uses 2 different types of penmanship
Search warrant was never signed and said he had probable cause for arrest.
3rd warrant for search that was signed.
Policeman Johnson didn't submit a report but is on witness list.
All removed was bullets, still carrying and all that was shot were walls.
* Warrants on wall were forged.



Georgia Department of Behavioral Health & Developmental
Disabilities

Frank W. Berry, Commissioner

5 copies

Georgia Regional Hospital at Savannah

1915 Eisenhower Drive, Savannah, Georgia 31406

912-356-2011

www.garegionalsavannah.com

FORENSIC SERVICES PROGRAM

COMPETENCY EVALUATION

November 6, 2014

The Honorable Louisa Abbot
Judge, Superior Court
Eastern Judicial Circuit of Georgia
203 Chatham County Courthouse
133 Montgomery Street
Savannah, Georgia 31401

Case Of: Linda M. SMITH

**Charges: 2014-07-0642-01: False Statements and
Writings; Reckless Conduct**

Referred: Chatham County Superior Court

FS Ref#: 762-9758

*Court was Harris Odell never
had court with Louisa Abbot
Abbot is superior court
Never submitted order
Records court*

Dear Judge Abbot:

Ms. Linda M. Smith was referred to Forensic Services of Georgia Regional Hospital at Savannah (GRH-S) by the Hon. Louisa Abbot in her court order of 08 August 2014. Within that order received in our office on 13 August 2014, the court directed an examination be completed in order to ascertain the defendant's Competency to Stand Trial for the charges enumerated above. Pursuant to the court's order, Ms. Smith was interviewed on 05 November 2014 at the Chatham County Detention Center (CCDC), where she is currently detained.

Procedures Employed and Sources of Information:

- o Interview and mental status examination;
- o Police Investigative Report;
- o Georgia Regional Hospital at Savannah records;
- o Consultation with CCDC mental health staff;

Notification of Rights:

Ms. Linda Smith was interviewed on one occasion, for approximately 1.5 hours. Prior to the initiation of our interview, she was advised of its nature and purpose, the extent to which information obtained could be used, of her rights to withhold such information, consult with her attorney, and terminate the examination at any time she chose. Verbalizing an understanding of her rights, Ms. Smith agreed to participate and signed the Advisement of Rights for Outpatient Competency Evaluation routinely utilized prior to all Forensic Services evaluations.

Current Offense:

I didn't tell doctor anything about feces he is going off a lie by the officer

The Police Report indicates that on 10 July 2014 at approximately 0828 hours officers responded to a trespassing call. The complainant, the defendant, advised officers there was an intruder in her home. Officers cleared the residence, finding no one, but in the course of doing so observed dozens of bullet holes in the walls of several rooms. Officers secured the defendant's .38 caliber revolver for officer safety. When asked about the bullet holes the defendant told officers she had woke up, smelled feces, thought someone was in the house and started shooting at the walls. At some point the defendant refused to continue talking to the officers and locked them out of her home. Mobile Crisis was notified and responded to the scene; however Ms. Smith refused to talk to them.

Relevant Background Information:

Relevant background information was obtained from the above-noted sources, as well as from Ms. Smith, who appeared to be an adequate historian, although the veracity of her reportage was uncertain.

I said police ignored physical evidence and when followed police procedure they committed me to fo

Ms. Linda Smith is a 47-year-old African-American female, who reported that she was born and raised in Savannah, in an intact home, until her parents divorced when she was age 10. She indicated that she was then primarily raised by her mother, but indicated that her father remained active in her life. She reported that she is the youngest of four siblings, with two brothers and one sister. Ms. Smith reported a history of sexual abuse, stating that she was molested at age 8 by a grandfather, and at some point between age 12 and 14 was molested by her oldest stepbrother on one occasion. She indicated that as an adult a fiancé sexually assaulted her while she was asleep. Records indicate that Ms. Smith has previously alleged having been raped at age 43 by someone who broke into her home, and during my interview she stated that "I had intruders in my home", and when asked if she had been sexually assaulted by intruders indicated that she thought so but "nothing I can prove." Ms. Smith has never married, and reported that she has no children.

Ms. Smith reported that she graduated from high school, regular education classes, and reportedly subsequently earned her LPN degree, initially going to school at Savannah Vocational-Technical School, and later at a school in Brunswick, Georgia, graduating in 1995. She indicated that in 2010 she was working on her bachelor's degree in nursing at Savannah State University, but had to discontinue the program in 2011 after a fire partially destroyed her home. Ms. Smith denied any history of military service, and reported that she has never received Social Security disability.

FORENSIC COMPETENCY EVALUATION

SMITH, Ms. Linda M. (Chatham County)

November 6, 2014

Page 3

It told him
- have an
associate
and was
working on
bridge program
Involved
with a white
man.

Ms. Smith described her work history as being employed as an "RN" nurse (which would appear inconsistent with her report of having only an LPN degree), in various settings, with her longest employment at a hospital in Brunswick for two years. She indicated that she has subsequently worked in various "flu clinics" as well as in part-time contract and agency nursing, reporting that she enjoys having time off to engage in activities with her mother. She reported that she was most recently employed as a contract nurse in Florida. She denied having difficulty sustaining employment. However, when asked about reports that Ms. Smith had been unemployed since 2009 and was subsisting on student loans, she vaguely indicated financial problems that resulted in "lost my car", and that she had applied for jobs and couldn't get them because she was "being blackballed." She reported that she has been residing in her own home since 1997, which was apparently repaired after a superficial fire in 2011.

Ms. Smith reported only occasional alcohol use, with the type "depending on what I'm eating." She also reported having tried marijuana in the past, but denied any ongoing use or any other substance use. She indicated no history of alcohol/substance treatment. Ms. Smith denied any history of previous legal involvement.

Ms. Smith denied any history of serious injury or illness. She indicated that her only history of surgery was for breast reduction sometime in her late 30s. Regarding psychiatric history, Ms. Smith initially denied any services. However, she went on to confirm reports that she was seen by the Crisis Response Team in 2011. *What I said was officer on scene was the one called crisis team and the team said "these people wanted us to come."*

Records indicate that Ms. Smith was seen by the Mobile Crisis Response Team on 16 February 2011, and was referred to GRH-S on a 1013 for 23 hour observation on 17-18 February 2011. On the intake form it was noted under reason for referral that Ms. Smith appeared delusional, apparently having auditory hallucinations (other information indicates that the defendant was denying hallucinations); had allegedly set her house on fire (Ms. Smith denied doing so), and "thinks people are trying to hurt her." She reportedly told staff that she had been having problems with break-ins, but no one (police officers) would believe her. She also reported having been taunted by one of the police officers at the precinct. She indicated to staff that she felt someone was contaminating her food or drink by entering her home with an extra key. The records indicated that Ms. Smith had been previously treated in 23 hour temporary observation in October 2010. No previous history of mental health services was indicated, and it was noted that Ms. Smith's mother reported no previous psychiatric history or history of schizophrenia for her daughter. Ms. Smith was given a diagnosis of Delusional Disorder NOS. She refused any medications. During the period of observation, Ms. Smith denied needing mental health treatment; however she indicated some willingness to go to Savannah Counseling, and was referred to Savannah Counseling for continuity of care. Ms. Smith appeared to indicate that she did not follow up with the plan. It was indicated in the discharge summary that she would stay with her mother until her home was repaired.

lie
look for
mark in
evaluation

17 cop
requested
police
accusations
911 operat
should have
document

CCDC mental health staff was consulted for purposes of the evaluation. Staff indicated minimal contact with Ms. Smith, who has not evidenced any behavioral problems. Records indicate that she has been seen by mental health staff to assess her need for psychiatric services. She presented as articulate, and appeared logical and coherent. She denied that

officer lied about shit in his reports and I refuse to help him because he is a lover to hit.

there was anything wrong with her, and claimed that "the white people" are always making statements about her getting checked out and having a mental evaluation. She denied any suicidal/homicidal ideation or hallucinations. In a second assessment, she continued to complain that "the white men" were out to get her and continued to deny that she has a mental disorder. She said she doesn't understand why people would feel that she is mentally ill, and indicated that she does not want any mental health services. The assessment gave a rule-out diagnosis for Delusional Disorder. Records indicate that she takes medication for hypertension, but is not on any psychotropic medications. ? twice

Behavioral Observations and Mental Status:

A brief mental status exam revealed Ms. Smith to be a 47-year-old medium-framed, overweight, African-American female, with short straight hair and medium complexion. She was appropriately dressed in detention center attire and displayed adequate grooming and hygiene. Her appearance was consistent with her chronological age. She was alert, and remained oriented to person, place, day, date, and situation. Ms. Smith denied any perceptual aberrations, and there were no indications that she was responding to any internal stimuli (e.g. auditory/visual hallucinations) during the course of our interview. Her speech was spontaneous, normal-rate, relevant, and goal-directed. Ms. Smith's affect and manner was initially somewhat guarded, careful and wary, but relaxed somewhat as the interview progressed, and appeared polite, talkative, articulate, engaging, and smiling appropriately. Adequate rapport was established and she appeared to give a good effort on the interview and assessment.

Ms. Smith denied current or habitual problems with sleep or appetite. She described her current mood as "okay; adjusted; I've never been on this side of the law", and her usual mood as "pretty good." She denied significant depression or anxiety, as well as any suicidal/homicidal ideation, plan, intent, or history of attempts.

As noted, Ms. Smith denied experiencing any auditory/visual hallucinations, including command hallucinations. She also denied feeling that she has special powers, or any other unusual abilities. However, the content of her reportage suggested delusionality regarding "intruders" and sexual assaults, and she had no insight that her perceptions could be wrong. Her report was consistent with information noted earlier in her previous crisis intervention services, as well as in her statements and behaviors noted in the police report regarding the alleged instant offenses.

There were no obvious difficulties with Ms. Smith's immediate, recent, or remote memories. She was able to read without difficulty, displayed a fair fund of general information, and appeared to be of average intelligence. She did well on a simple attention/concentration task (spelling "world" backwards). She also did well on a simple abstract reasoning task, involving discerning the essential commonality between pairs of verbally presented items. Ms. Smith was able to give appropriate responses when asked simple questions involving social judgment and commonsense reasoning. However, regarding insight into her own situation, although she was well aware of her current charges and the circumstances giving rise to the

charges, Ms. Smith had no insight regarding the possibility that her perceptions of "intruders" and various episodes of sexual assault while she was sleeping do not appear to be true.

Court Competency:

Ms. Smith was questioned regarding her knowledge of the nature and object of the anticipated legal proceedings, her condition in reference to these proceedings, and her ability to assist her attorney in the preparation of her defense.

Regarding her knowledge of the nature and object of legal proceedings, Ms. Smith affirmed that the judge is in charge of the court (e.g. "keeps order in the court; says whether evidence and questions are permitted"), maintains a neutral role ("keep it even"), could determine guilt or innocence, and would determine sentence if she was convicted. She understood that if she had a jury trial the jury would determine guilt or innocence. Ms. Smith described her attorney's role as "prove that I was never a threat; had grounds for shooting at intruders" and affirmed that her attorney would attempt to have her be found not guilty, and would work for her benefit. She described the role of the District Attorney as "his job is to prove that I'm guilty." She understood that witnesses would testify about what they saw or know about the case; that some witnesses might be trying to help her while others might be against her; that witnesses were supposed to tell the truth, and could incur legal sanctions if they did not ("committing perjury").

Ms. Smith stated that she would behave appropriately in court by sitting quietly by her attorney. She understood that inappropriate behavior could result in additional legal charges. When asked how she would cope with hearing testimony with which she disagreed, Ms. Smith stated that she would write a note to her attorney and quietly pass it to him.

Ms. Smith understood that she could not be compelled to testify. She was initially uncertain regarding who could ask her to testify, but appeared to understand the examiner's explanation. Ms. Smith understood that if she did choose to testify she would be subject to an adversarial cross-examination by the prosecutor.

Regarding knowledge of her condition in reference to the legal proceedings, Ms. Smith was able to accurately describe her charges. She indicated that the False Statement charge is a felony and the Reckless Conduct charge is a misdemeanor. She understood that she faced the possibility of imprisonment if convicted, although she was uncertain regarding how long she might be incarcerated for. Ms. Smith understood the concept of probation, and understood that probation would entail compliance to established rules and conditions. She understood that one condition might be to not possess any firearms, although she also indicated some resistance to the idea. Ms. Smith understood that violation of the rules and conditions of probation could result in detention.

Regarding her ability to assist her attorney in her defense, Ms. Smith stated that she has retained a private attorney, Mr. Lloyd D. Murray Sr., Esq., and displayed his business card. She reported being very willing to assist her attorney in her defense by telling him her side of events and answering his questions. Ms. Smith understood her basic plea options. When

asked to define a plea option of Not Guilty by Reason of Insanity (NGRI), Ms. Smith stated that such a plea could occur if the defendant was "out of your mind or not dealing with reality at the time of the crime." She understood that the consequence of a successful NGRI plea would be placement in a Secure Forensic Unit at a psychiatric hospital. Ms. Smith was familiar with the concept of a negotiated plea, which she described as "both parties agree to a deal about the charges." She understood that she did not have to accept a negotiated plea and that any such arrangement would have to be approved by the DA and her attorney, and, when asked, affirmed that the judge would also have to approve. She initially did not appear to understand that acceptance of a negotiated plea would require that she plead guilty, but she appeared to understand the examiner's explanation. Because of the condition of pleading guilty to receive a negotiated plea, Ms. Smith stated that she would have "to think about it" before accepting even a very favorable negotiated plea, such as time served. However, Ms. Smith understood that if she refused a proffered plea bargain she would go to trial.

Ms. Smith was able to recall and relate facts pertaining to her actions and whereabouts during the timeframe of the alleged instant offenses. Her account was consistent with information in the police investigative reports, and she was able to provide additional relevant detail. She should be able to assist counsel in locating and examining relevant witnesses, and should be able to maintain a consistent defense. She appears capable of listening to the testimony of witnesses and informing her attorney of any (perceived) misstatements, although given her delusional features she will likely see some events quite differently from other observers. Ms. Smith appears to have the ability to make simple decisions in response to well-explained alternatives. If necessary to defense strategy, she should be capable of testifying in her own defense. Ms. Smith appears to have the capability of coping with the stress of trial, however, her intractable delusional beliefs, along with the police allegations that she made them leave her home and then chained her gate suggests that she could become agitated or withdraw when hearing statements that are contradictory to her delusional beliefs.

Difference of opinion
old gate
uptain Hall
ever answered
I can see situation going bad even though both officers were armed and had my weapons also.

In my opinion, Ms. Linda Smith was able to demonstrate an adequate understanding of courtroom procedures, personnel, her charges, possible consequences, and her ability to assist in her own defense. Thus, I recommend that she be regarded as **Competent to Stand Trial** at this time for the alleged instant offenses.

Conclusions and Recommendations:

Ms. Linda M. Smith is a 47-year-old, never-married, African-American female, who was referred to Forensic Services of Georgia Regional Hospital at Savannah (GRH-S) secondary to charges of False Statements and Writings, and Reckless Conduct. Based on available records and interview presentation there does not appear to be any mental health crisis that would warrant immediate psychiatric hospitalization for Ms. Smith. However, her history, police allegations, and interview presentation suggests that she experiences circumscribed persecutory delusions regarding home "intruders" and episodes of sexual assault while asleep, and I concur with previous treatment providers in feeling that she likely suffers from a Delusional Disorder. There are no indications of symptom feigning or malingering. Her intellectual functioning appears to be within the average range.

In my opinion, Ms. Linda Smith appears **Competent to Stand Trial** at this time for the alleged instant offenses. Her results from my interview indicate an adequate understanding of courtroom procedures, personnel, her charges, possible consequences, and ability to assist her attorney in her own defense. Ms. Smith's current mental state does not appear to preclude her ability to receive a fair trial. However, as noted above, her delusional features may well lead her to perceive some details of events in the allegations in a very different manner from more objective observers, and may also make her somewhat susceptible to increased agitation or withdrawal under the stress of trial. It is possible that an appropriate psychotropic medication regimen could be beneficial for her; however she has thus far refused medications.

If I can be of any further assistance to the Court, please feel free to call (912) 356-2328.

Respectfully Submitted,

Philip L. Barron, Ph.D.
Philip L. Barron, Ph.D.
FORENSIC PSYCHOLOGIST

PLB/sjj

*difference of opinion
I was protecting myself against irrational policemen who happens to be white.*

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 22, 2014

To: Mr. Donald P. Tripney, 80 Plum Lane, Apartment B, Ringgold, Georgia 30736

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

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name. Therefore, there is no file to append your letter copy dated December 8, 2014.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is:
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Court of Appeals of Georgia

Dec. 8th, 2014

Suite 501

ATTN: Clerk

47 Trinity Ave.

Atlanta, Ga. 30334

Donald P. Triponey

80 Plum Lane Apt. B

Ringgold, Ga. 30736



RE: Copy of letter to Chief Judge Wood

Dear Clerk,

Inclosed is a copy of a letter to Catoosa County Chief Judge Woods.

I would like this letter put on the record and I request the Justices to read it.

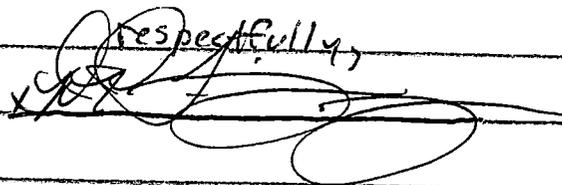
Thank You

D.P.T./d.pt.

c.c. file

enclosure

letter to Judge

Respectfully,


Catoosa County Superior Court
ATTN: Chief Judge Jon B. Wood
875 Lafayette St.
Ringgold, Ga. 30736

December 1st, 2014

Donald P. Triponey
80 Plum Ln., Apt. B
Ringgold, Ga. 30736

RE: Case NO: 93-SU-CR-223762

Dear Hon. Judge Wood,

Good day. On approximately June 5th, 2013 I filed a Pro-Se Motion for Out-of-Time Appeal, Motion to Proceed in Forma Pauperis, and Motion for Appointment of Counsel or Public Defender.

On August 13th, 2013 the Honorable Court denied the above motions and I filed a timely Notice of Appeal on the 23rd of August 2013. Soon after I was appointed a Public Defender a Mr. Sean Lowe from the Catoosa Public Defender's Office. Mr. Lowe contacted me via U.S. Mail at Johnson State Prison and advised me he was appointed to represent me. I advised Mr. Lowe that I wanted to pursue my case of which was a Motion for New Trial that was timely filed on November 5th, 1993 (found guilty by jury October 15th, 1993) by my Court appointed trial —

(1)

(2)

That was the last time I had any contact from Mr. Lowe. I've tried many times to call him and left many messages —

Attorney. After I was released from my 30 years to the door Prison Sentence, I returned to Ringgold. I then talked to Mr. Lowe briefly. He again told me not to worry and he was going to check on a few things and get back with me. Several months went by with no contact from him. I then tried to call him and all I could do is leave messages of which he never returned. Finally around July or August 2011 I was able to catch him by phone and Mr. Lowe told me he was waiting on some "Discovery Evidence" from the Catoosa District Attorney and he could not continue with my case until he was contacted back by the District Attorney.

Attorney Mr. Peter J. Garland II of which was never ruled on and is still pending 3 1/2 years later. Mr. Lowe was advised of my release from Prison October 4th, 2013 and he then advised me he would continue with my case and keep in contact with me. I advised Mr. Lowe of the Motion for Out-of-Time Appeal that I filed Pro-se and was denied by your Court. I then told Mr. Lowe that to preserve my rights I filed a timely Notice of Appeal on August 23rd, 2013 and sense now that he is my attorney I would not be able to file any more motions or briefs. He then said he would take care of everything and I was not to worry.

for him to contact me. As of today's date Mr. Lowe continues to avoid contacting me.

Mr. Lowe never said that he filed any briefs with the Georgia Court of Appeals nor did he send me any documents to that effect. Mr. Lowe has not even requested a hearing or filed any amended briefs on my Motion for New Trial that was timely filed on November 5th, 1993 over 21 years ago.

Again I have been abandoned by a public defender. It is the Court's and the STATE'S responsibility under SEE:

Threatt vs. State, 282 Ga. App. 884 (2006) as overseers of the Criminal Justice System. Again my due process rights are being denied me. Also see: Spradlin v. State, 262 Ga. App. 897 (2003)

"Any failure of the indigent defense system to represent its clients is directly or indirectly the responsibility of the STATE and the trial court to oversee the functioning of the criminal justice system." (Holding STATE responsible for delay where indigent's appellate attorney failed to pursue post-trial remedies.) A lawyer as is Mr. Lowe, who accepts an appointment to represent an indigent client has a duty (even as a public defender) toward the client and the courts to fulfill his obligations. Mr. Lowe has failed to fulfill his responsibility.

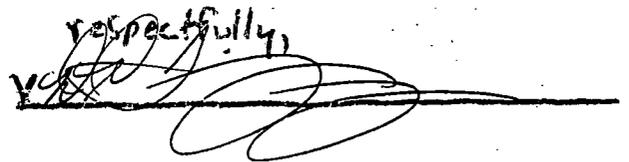
This has become a miscarriage of justice and the courts need to address this issue. My trial attorney Mr. Peter J. Garland II is a key witness to my case and all my other witnesses have passed away. Mr. Garland has been made aware of this issue and wants to testify on my behalf at —

the hearing on the Motion for New Trial, or any other hearing. Mr. Garland is retired and is up there in age and it is directly important to procure his testimony.

I urgently request that the Courts (Superior or Georgia Court of Appeals) look into and investigate this matter to see who is causing this delay and why The STATE (Catoosa District Attorney) or the Catoosa Public Defender's Office. Mr. Lowe is unable to fulfill his obligation to me and I am requesting a conflict attorney who can.

Waiting for someones response.

Thank You

respectfully,


d.p.t./D.P.T.

C.L.

1. Catoosa District Attorney
 2. Catoosa Public Defender Sean Lowe
 3. Chief Judge Jan. B. Wood Catoosa County Superior Court
 4. Clerk of Catoosa County
 5. Georgia Court of Appeals
 6. Southern Center for Human Rights
 7. File
- (4)

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 22, 2014

To: Mr. Bruce E. Turner, GDC154884, Douglas County Jail, 8472 Earl D. Lee Boulevard,
Douglasville, Georgia 30134

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

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

STATE OF GEORGIA

BRUCE TURNER

RECEIVED IN OFFICE
2014 DEC 19 PM 3:19
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

1) Defendant was charged with 2nd violation of Georgia Controlled Substances Act - possession or less than one ounce of marijuana marijuana O.C.G.A. 16-15-30(d)(1)

FACTS: Marijuana to be legally identified must meet three (3) tests. Appellate May 11, 1994

(5) No evidence introduced in the discovery package establishes that the marijuana was turned over to the crime lab for testing.

(5) No evidence documented that the alleged substance taken from the defendant was tested and identified as a controlled substance.

(4) No evidence established that the substance was marijuana. The three tests were used to identify the substance as marijuana.

(5) The arresting officer T.L. ROBERT WINS FOX AN EXPERT IN THE AREA OF DETERMINING IF A SUBSTANCE IS MARIJUANA BY THE LOOK OR SMELL OF THE SUBSTANCE.

(11)

PHYSICAL / DOCUMENTARY EVIDENCE WHICH MAY BE SUBORNED FROM A STATE CRIME LAB CHEMIST'S WORK PRODUCT AT TRIAL ARE THOSE MEMOS, NOTES, GRAPHS, COMPUTER PRINTOUTS AND OTHER DATA THE CHEMIST WILL RELY UPON TO SUPPORT HIS OR HER TESTIMONY AND TO THE SUBSTANCE FOUND ALLEGED TO BE DRUGS. *EASON v STATE* (10.9.90); *SMITH* 89060829;

(12)

DEFENDANT CONTENTS THAT NO WAIVER WAS PRESENTED NOR SIGNED THAT SHOWS THE DEFENDANT MICHIGAN RIGHTS WAS READ.

IT IS FOR ALL THE ABOVE REASONS THE DEFENDANT CONTENTS HIS ATTORNEY WAS INEFFECTIVE AND HIS PLEA SHOULD BE WITHDRAWN.

MR. SWINDLE PLEASE TAKE A LOOK AT ALL THESE ISSUES AND ~~TRY~~ WRITE BACK AND LET ME KNOW HOW MANY AT THE ARGUMENT IN MY CASE AND ON MY BEHALF WHEN I'M RETURNED BACK TO COURT.

REASONS FOR WITHDRAWAL OF GUILTY PLEA:

1) INEFFECTIVE ASSISTANCE OF COUNSEL.

COUNSEL ADVISED CLIENT TO PLEA GUILTY WHEN THE STATE NEVER DID ESTABLISH FROM THE EVIDENCE THAT THE SUBSTANCE ALLEGED TO BE MARIJUANA WAS EVER IDENTIFIED AS SUCH BY THE CRIME LAB.

COUNSEL WAS INEFFECTIVE WHEN SHE FAIL TO QUESTION THE INTERROGATION CONDUCTED THAT LEAD TO THE DEFENDANT MAKING INCRIMINATING STATEMENTS WITHOUT FIRST BEING ADVISED OF HIS RIGHT TO COUNSEL.

COUNSEL WAS INEFFECTIVE WHEN SHE ALLOWED DEFENDANT LICENSE TO BE SUSPENDED FOR A MARIJUANA CHARGE THAT WAS NEVER PROVEN, NOR ESTABLISH BY THE EVIDENCE SUPPORTING THE CRIME LAB REPORT.

COUNSEL WAS INEFFECTIVE WHEN SHE FAIL TO QUESTION THE STATE, AS TO HOW THE SUBSTANCE FOUND ON THE DEFENDANT, TESTED POSITIVE. WITHOUT A REPORT FROM THE CRIME LAB.

COUNSEL WAS INEFFECTIVE WHEN SHE FAIL TO QUESTION THE MISLEADING STATEMENT ON THE BOTTOM OF THE STATEMENT FORM SIGNED BY THE DEFENDANT THAT STATED HE WAS FREE TO LEAVE AFTER SIGNING STATEMENT.

IN THE COURT OF APPEALS STATE OF GEORGIA

BRUCE TURNER

DEFENDANT

VS

THE STATE

RECEIVED IN OFFICE
20 OCT 17 PM 3:42

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

CASE NO. 13-0376

RECEIVED IN OFFICE
19 DEC 19 PM 3:19

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

AMENDMENT TO APPEAL
TO WITHDRAW GUILTY PLEA
TO DENIAL

CAME NOW THE DEFENDANT IN THE ABOVE STYLE CASE HEREBY
FILE HIS AMENDMENT TO HIS NOTICE TO APPEAL HIS DENIAL
TO HIS MOTION TO WITHDRAW GUILTY PLEA.

HISTORY OF THE CASE

THE DEFENDANT WAS ARRESTED IN MAR 25 2013 FOR THE OFFENSE
OF THEFT BY SHOPPING KENNEL. THAT BY SHOPPING MISDEMEANOR
POSSESSION OF MARIJUANA.

DEFENDANT ENTERED A GUILTY PLEA
ON JAN 16, 2014. ON JAN 16, 2014 THE COURT SENTENCE THE
TEN (10) YEARS SERVE EIGHT (8). ON FEB 5, 2014 THE DEFENDANT
FILED A MOTION TO WITHDRAW HIS GUILTY PLEA ON JUNE 18, 2014
THE COURT SCHEDULED A HEARING ON JUNE 18, 2014

THE MOTION WAS DENIED ON JULY 1, 2014.
ATTORNEY FOR THE DEFENDANT WAS SIMINOLE GROUP INC

The defendant then filed his notice of appeal on July 8, 2014. Appearing his denial to his motion to motion to withdraw guilty plea.

Ground One: Ineffective Assistance of Appellate Counselor. Mr. Swindle.

Supporting facts: Attorney Swindle failure to investigate

trial counsel performance as to him

not investigating the laws and facts surrounding the

defendant case before convincing the defendant

into taking a plea bargain, which was against

the defendant better judgment since

1) the defendant made an unforced while being

interviewed, but was never informed during the

interview that he had the right to have an

attorney present during questioning.

2) the defendant never sign a waiver showing that he

gave up his rights to be questioned without the present

of an attorney.

3) Nor did the law enforcement officer produce a

waiver to establish that the defendant was ever

presented with one to sign.

4) Attorney Swindle failure to raise the issue as to

trial attorney failure to suppress the evidence as

to the alleged substance being marijuana since the

substance was never turned over to the crime lab

for testing.

- (5) THE CHAIN OF CUSTODY AS TO THE ALLEGED SUBSTANCE FOUND ON THE DEFENDANT AT THE TIME OF HIS ARREST WAS BROKEN FROM POINT (A) HIS ARREST, TO POINT (B) HIS COURT APPEARANCE, BECAUSE THE SUBSTANCE WAS NEVER PRESENTED IN COURT, NOR WAS IT TURNED OVER TO THE CRIME LAB FOR TESTING.
 - (6) ATTORNEY SWINDLE FAIL TO INVESTIGATE ANY OF THE SOURCES OF INFORMATION GIVEN TO HIM BY THE DEFENDANT CONCERNING THE CASE.
 - (7) ATTORNEY SWINDLE, FAILURE TO CONSULT WITH THE DEFENDANT BEFORE TRIAL TO OBTAIN BACKGROUND INFORMATION ABOUT THE CASE SO THAT HE COULD PREPARE A DEFENSE
 - (8) ATTORNEY SWINDLE WAS INEFFECTIVE IN HIS FAILURE TO RAISE THE ADE QUERE NISI AS TO THE COURT PROCEDURE BEING FOLLOWED WHEN ALL ALLEGED SUBSTANCE IS PROVIDED DEEMED TO BE A DRUG OF SOME KIND.
- THE EVIDENCE FROM THE TRANSCRIPT OF THE HEARING WILL CLEARLY ESTABLISH THE FACTS AND SHOW THAT COUNSEL SWINDLE WAS JUST AS EQUALLY INEFFECTIVE, AS MY TRIAL ATTORNEY WHO DID NOTHING TO ESTABLISH MY INNOCENCE NOR ESTABLISH ANY KIND OF DEFENSE.

IN DETERMINING WHETHER REPRESENTATIVE HAS NOT PRESERVED A FACTUAL INQUIRY SHOULD BE CONSIDERED TO DETERMINE.

1. WHETHER THE DEFENDANT HAD A DEFENSE WHICH WAS NOT PRESERVED ANSWER: YES. THE DEFENDANT AVE PROCEEDINGS WHICH WAS VIOLATED WHICH THE FIFTH AND FOURTEEN AMENDMENT TO THE UNITED STATES CONSTITUTION GUARANTEES.

WHEN THE LAW ENFORCEMENT OFFICER FAIL TO TALK OVER THE SUBSTANCE FOUND IN THE DEFENDANT TO THE CRIME LAB FOR TESTING, THE CHANG OF EVIDENCE AS TO THE SUBSTANCE FOUND WAS BROUGHT FROM PRISON (A) HIS APPEAR TO POINT (B) HIS COURT APPEARANCE ADVANCE COULD PRODUCE THE SUBSTANCE ALLEGED TO BE FOUND IN THE DEFENDANT AT THE TIME OF HIS ARREST, ALL THOUGH ALSO WAS THERE A REPORT FROM THE CRIME LAB AS TO THE SUBSTANCE FOUND

HAD MR SWINDELE PRESENTED HIS PROPOSAL THAT VARIOUS ALLEGED FAIL TO ESTABLISH THE EVIDENCE COULD HAVE BEEN SUPPRESS AND THE DEFENDANT DUE PROCESS NOT VIOLATED SO YES MR SWINDELE HAD A DEFENSE THAT HAS NOT PRESERVED.

WHETHER COUNSEL COUNSEL SUFFICIENTLY WITH DEFENDANT ANSWER: NO. WHEN DEFENDANT ARRIVED AT THE COURTS COUNSEL MR SWINDELE DID NOT WITH THE FAIL TO SPEAK WITH HIS CLIENT, NOR DID HE INFORM HIS CLIENT THAT HE WOULD BE ASKED TO MAKE THE WITNESS STAND.

THE FAILURE TO INVESTIGATE AND PRODUCE SOURCES OF EVIDENCE WHICH MAY HAVE BEEN HELD BY THE DEFENSE IS BUT FAR THE GREATER DROPPING OF THE ARDRETT'S DUTY TO ADEQUATELY DEFEND HIS CLIENT
DAVIS V. ALABAMA 396 U.S. 121 (1970)

CRIMINAL 175 201119

THE PREJUDICE FROM LOSS OF PREPARATION AND EXPERIENCE CANNOT BE NICELY WEIGHED UNDER SLATES V

THE DEFENDANT, SHUCKLAND V. WASHINGTON SUPREME AT 685
INFORMATION ABOUT THE CASE HE IS IN NO POSITION TO MAKE
WHEN COUNSEL DO NOT HAVE DATA PROVIDED

PREPARATION, ANOTHER THAT UNWISE CHOICES OF STRATEGY.
4) WHETHER DECISION CHANGED RESULT FROM INVESTIGATE

THE LAW.

did not investigate the law nor the facts supporting
claim that the record clearly shows that Mr. Swindle
swindle fail to argue the truth and truth AMERICAN BANK
FURNISH AMERICAN BANK AND TRUTH AMERICAN BANK, SINCE MR.

TAKEN BEFORE MIRANDA WARNING IS GIVEN VIOLATES THE

MIRANDA, DENYING ANY ~~CRIMINAL~~ CRIMINAL

ANSWER NO: MR. SWINDLE FAIL TO INVESTIGATE THE LAW AS NO

3) WHETHER COUNSEL ADEQUATELY INVESTIGATE THE LAW AND FACTS.

MR. SWINDLE SPOKE WITH HIS CLIENT THE DAY OF THE HEARING
WHEN THE DEFENDANT WAS BROUGHT INTO THE COURT ROOM. SO HIS
MR. SWINDLE DID NOT COUNSEL SUFFICIENTLY WITH CHECK.

REVERSE

THE DEFENDANT ASK AS TO GRANT THE INTERVIEW ASSISTANCE ON ADDITIONAL SWITCHE THAT HAS CONVICTION BE
RELIEF STATE
MEXICO SUPRA AT 886

WHICH COURSE THROUGH PRESENT IN NAME IS UNABLE TO
ASK THE DEFENDANT TO OBTAIN A FAIR DECISION ON THE
FAIR VIEW THE CONSTITUTIONAL CAN NOT TAKE THEM IN
THE FRONT TO COURSE IS SO FUNDAMENTAL TO A
CRUCIAL TO THE ABILITY OF THE ADVERSARIAL SYSTEM"
BECAUSE IT ENVISIONS COURSE'S PLAYING A ROLE THAT IS
RECOGNIZES THE FRONT TO THE ASSISTANCE OF COURSE
THE CONSTITUTIONAL DEMAND THE SIXTH AMENDMENT
ALWAYS THE REQUEST, HOWEVER IS NOT ENTIRELY TO SAY THAT THE
"THAT A PERSON WHO HOPED TO BE A LAWYER WHO IS DEBENT
FROM SPEAKING AT 885

WAS JUST THAT TO VISIT, IT WAS UNREASONABLE TO OBTAIN
LACK OF EXPERIENCE AND JUDGMENT AND DID NOT PREPARE
IN THE PRESENT CASE WHEN COURSE'S ADVISORS

(17th Cir 1983)

PROVIDE LINE OF DEFENSE LITIGANT V. WASHINGTON 708 P.2D 614, 616
SUBSTANTIAL INVESTIGATIONAL INFO, A DEFENDANT'S ONE
CAN NEVER INCLUDE THE FAILURE TO OBTAIN A REASONABLE
THEREFORE PERMISSIBLE REASONABLE

794 P.2D 825 (17th Cir 1982)

ALL THE HEARD OF EFFICIENT REPRESENTATION IS THE INTEREST
OF TO INVESTIGATE AND PREPARE. GARDNER V. BROWN 684 P.2D 822

GROUND TWO: VIOLATION OF DEFENDANT MIRANDA RIGHTS

SUPPORTING FACTS: WHILE IN THE POLICE CUSTODY THE DEFENDANT WAS QUESTIONED BY POLICE OFFICERS IN A ROOM IN WHICH HE WAS CUT OFF FROM THE OUTSIDE WORLD. THE DEFENDANT WAS NOT GIVEN A FULL AND EFFECTIVE WAIVERING OF HIS RIGHTS AT THE OUTCOME OR NURSE OF THE INTERROGATION PROCESS.

THE DEFENDANT SIGN AN CONFESSION WITH THE UNDERSTANDING THAT HE WOULD BE FREE TO LEAVE BUT HE COULD NOT RETURN BACK ON THE STORE PROPERTY.

1). THE PROSECUTION MAY NOT USE STATEMENTS, WHETHER EXPLICITLY OR IMPLICITLY, STEMMING FROM QUESTIONING INITIATED BY LAW ENFORCEMENT OFFICERS AFTER A PERSON HAS BEEN TAKEN INTO CUSTODY OR OTHERWISE DEPRIVED OF HIS FREEDOM OF ACTION IN ANY SIGNIFICANT WAY, UNLESS IT DEMONSTRATES THE USE OF PROCEDURAL SAFEGUARDS EFFECTIVE TO SECURE THE FIFTH AMENDMENTS PRIVILEGE AGAINST SELF-INCRIMINATION. MIRANDA V ARIZONA 384 U.S. 436 (1966)

2). THE PRIVILEGE AGAINST SELF-INCRIMINATION, WHICH HAS LONG AND EXPANSIVE HISTORICAL DEVELOPMENT, IS THE ESSENTIAL MAINSTAY OF OUR ADVERSARY SYSTEM AND GUARANTEES TO THE INDIVIDUAL THE "RIGHT TO REMAIN SILENT UNLESS HE CHOOSES TO SPEAK IN THE ~~FREE~~ UNFETTERED EXERCISE OF HIS OWN WILL" DURING A PERIOD OF CUSTODIAL INTERROGATION. ESCOBEDO V ILLINOIS, 378 U.S. 478.

RELIEF SOUGHT:

DEFENDANT ASK THAT HIS CONVICTION AS TO GROUND TWO VIOLATION OF HIS MIRANDA WAIVERING BE REVERSE.

GROUND THREE: OPINION OF A JUDGE 9-10-7 VIOLATION
OF D.C.B.A. 17-8-57 AND BIAB. 24-9-68

SUPPORTING FACTS: DURING THE MOTION HEARING TO WITHDRAW
GUILTY PLEA, THE STATE NEVER DID PRODUCE
THE ALLEGED SUBSTANCE FOUND ON THE DEFENDANT AT THE TIME
OF HIS ARREST AT THE HEARING AS EVIDENCE.

THE STATE NEVER DID PRODUCE NOR INTER
IN AS EVIDENCE AT THE HEARING ANY DOCUMENTATION
FROM THE CRIME LAB THAT COULD OR DID CORROBORATE
THE JUDGE'S PERSONAL OPINION STATED IN THE TRANSCRIPT
AS TO THE DEFENDANT KNOWING THE SUBSTANCE ALLEGEDLY FOUND
WAS MARIJUANA.

THE TRIAL COURT HAVE A DUTY, EVEN WITHOUT
A MOTION THEREFOR TO SEE THAT THE TRIAL OR HEARING
WAS FAIRLY CONDUCTED AND WHERE IMPROPER REMARKS
ARE NOT MADE BY PROSECUTOR OR JUDGE.

THE ABSOLUTE DUTY OF THE JUDGE TO INTERVENE
AND STOP IT AND BY ALL NECESSARY INSTRUCTIONS REMOVE THE
IMPROPER IMPRESSION. BUT WHEN THE VIOLATION IS MADE
BY THE JUDGE HIS DECISION, THEN BECOME A PERSONAL
OPINION WHICH IS BIAB AND UNSUPPORT BY LAW, FACTS
NOR EVIDENCE BUT JUST THAT. AN OPINION.

RELIEF SOUGHT.

DEFENDANT ASK IN GROUND THREE THAT HIS CONVICTION
BE REVERSE.

(b)

CONCLUSION:

THE DEFENDANT HAS MADE A CLEAR SHOWING FROM THE RECORD AS TO THE VIOLATIONS STATED IN THE FOLLOWING GROUNDS. THE DEFENDANT PROVES THAT THIS COURT RECOGNIZING THAT PRESIDENT TO McCRACKIN V STATE 234 (GA APP 2011(1998)) IS NOT REQUIRED TO HOLD A HEARING ON THE MOTION.

THE DEFENDANT RECOGNIZING AND ACKNOWLEDGING THAT IT HAS THE JURISDICTION, POWER AND AUTHORITY TO GRANT OR RESCIND OR REVERSE SENTENCE IMPOSED.

THIS IS DAY OF OCT 2014

Bruce Turner

BRUCE TURNER 154884

G.D.C.P. P.O. BOX 3877

JACKSON, GEORGIA 30233

Prepared by:

MR. BRUCE TURNER #154884

G.D.C.P. P.O. BOX 3877

JACKSON, GEORGIA 30233

Pro SE

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing amendment to appeal in the above style case, prior to filing, the same, by depositing a copy thereof postage prepaid in the United States Mail to the following:

This 14 day of Oct 2014

[Signature]

MR BRUCE MCRAE 154884

DISTRICT ATTORNEY
8700 ROSKOPF AVE
DOUGLASSVILLE, GA 30134

COURT OF APPEALS OF GEORGIA
SUITE 501
417 TRINITY AVENUE
ATLANTA, GEORGIA, 30334



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

STEPHEN E. CASTLEN
CLERK/ COURT ADMINISTRATOR

December 23, 2013

(404) 656-3450
castlens@gaappeals.us

Mr. Marvin Turner
GDC764043
Macon State Prison
Post Office Box 426
Oglethorpe, Georgia 31068

Dear Mr. Turner:

We are in receipt of your letter requesting information and advice concerning various questions you have regarding your case. I am sorry to inform you that I am unable to provide you answers to your questions as each question is dependent upon the facts and circumstances of your case and an analysis of the issues involved. Our Court's jurisdiction and processes are controlled by the Georgia Constitution, Statutes, case law and Court rules. You should seek legal counsel regarding when and what Court to appeal a sentencing issue. Many factors impact the decision to include when the sentence was imposed.

When filing a Discretionary Application, not a direct appeal, our Court requires a final order that is being appealed, and; mandamus is an extraordinary remedy at law. 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.

Again, my apologies that I cannot provide the advice and guidance that you seek. I do wish you well with your appeal.

Sincerely,

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

SEC/ld

December 18th, 2013

pg. 1 of 2

To: The Clerk of the Court

HELLO, my name is MARVIN MURKIN and, as I AM WRITING IN REFERENCE TO RECEIVING SOME ANSWERS TO SOME QUESTIONS, THAT I HAVE OF THE COURT.

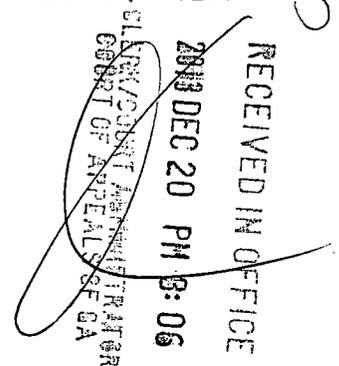
- 1.) Is a "MOTION TO SET ASIDE & CORRECT VOID SENTENCE" APPEALABLE TO THIS COURT?;
- 2.) When a MOTION HAS NOT BEEN DECIDED ON, AND IS OUTSIDE OF THE ALLOTTED TIME, CAN IT BE APPEALED TO THIS COURT, WITHOUT A FINAL JUDGMENT OR ORDER?;
- 3.) Is a "Writ of Mandamus" CONSIDERED TO BE AN "EXTRAORDINARY REMEDY"? IF NOT, IS IT APPEALABLE TO THIS COURT?; and
- 4.) When a "Writ of Mandamus" HAS NOT BEEN DECIDED ON AND IS OUTSIDE OF THE ALLOTTED TIME, CAN IT BE APPEALED TO THIS COURT, WITHOUT A FINAL JUDGMENT OR ORDER?

I RESPECTFULLY REQUEST OF YOU, TO ANSWER THESE PERTINENT QUESTIONS FOR ME. BECAUSE CURRENTLY, I AM A PRISONER, WHO IS PRO SE, WITH LIMITED LEGAL EXPERIENCE AND WITHOUT LEGAL ASSISTANCE. AND, I DO NOT WANT EAR AND WASTE TIME, BY FILING IN THE WRONG COURT.

SO, IT IS GREATLY APPRECIATED, IF YOU COULD FORWARD THE REQUESTED ANSWERS TO THESE QUESTIONS TO THE ADDRESS LISTED BELOW. THANK YOU FOR YOUR ASSISTANCE.

Sincerely,
Mr. Murkin

1.



Mr. Martin Luther
#1164043
Wagon State Prison
P.O. Box 426
Ogletonville, Cal. 31018

Clerk Case NO

1714A 1879

Will you send me a docket
sheet & give me the status

can my appeal

The other motion can be filed without
an appeal being in court. This do not go with
pending appeal is a case law but 2006 case
said proper forms I will need to file in court
proper forms appears from law lib don't know
why for matters

Thank you

E. R. Day 5/20/13

IN THE GEORGIA COURT OF APPEALS FOR THE
STATE OF GEORGIA

RECEIVED IN OFFICE
2014 DEC 19 AM 11:53

EDWARD TYRONE RIDLEY, 570139, Pro se
Petitioner,

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

V.
THE STATE OF GEORGIA
Respondent

FOR CASE NO'S. 04R516, OR4-126 VIOLATION
OF 42-1-12 run concurrent with above case no. withdrawn.

EMERGENCY INJUNCTION, MANDAMUS, withdrawal of illegal
Sentence, 17-9-4

Petitioner, Pro se in the above-styled Action respectfully moves this Honorable Court to issue a Emergency injunction, mandamus and withdrawal of illegal sentence Crisp Co. Courts refuse to answer for the below following ~~reasons~~ reasons below pursuant to the Rules of Appellate Procedure.

- (1) Ridley never received a fair warning from Bay Co. Florida, from his 1995 case, case no. 95-2844 and Contract Plea Contendere Plea on 7/29/96 for 30 Attempted sexual Battery with no likely injury.
- (2) The Alleged victim in his Fla case was a 20 Twenty year old adult not a minor as 42-1-12 (9)(A) require, or Florida Statute 994.012 (5) required in (1995) where Ridley received time served from his arrest on 12/12/95 to his Contract plea on 7/29/96 and only received 3 yrs, not 30 yrs as Crisp Co. has punished Ridley to illegally serve. 3 of those.

to serve with parole at 1/3, where they violated Stephens v. State Court when placed in RST at Johnson State Prison where Court on 11/18/13 said to have alcohol treatment while in care of prison which is illegal, my sentence here

(3) Public Defenders Office failed to force the Court to provide by my Fla. 7/29/96 contract where I cons only to provide Data to FILE NOT 4/21-12 than

OR IN ANY future ACTION.
(4) State of Florida at FILE conspired with agents of Cosp Co. Sheriff Dept. Beh Denise Youngblood in 2003 to place me of Fla. Soc. registers so Ga. could illegally place me on 4/21-12 illegally as a C.M., U.S.P. C.S.O. without taking me in Florida before a Judge to be classified in Fla. first before placing me in Fla. as any form of S.O. without a due process hearing as required by law, then and now but have never been done to date that make that conviction illegal and 13R-149, have right to force the courts to provide by my 7/29/96 contract or with draw

ON Emergency basis, Hearing of Florida October 1, 1997, Sanction on 7/25/14 there is nowhere in any Cosp Co. records that mention Florida Statute 943.0435 that was not in effect nor implemented or pronounced in sentence on 7/29/96 This Court can force his Fla. Plea or issue a order to withdraw his Fla. Plea and Direct the Public Defenders office to file proper petitions in Georgia to with draw

All of his illegal sentences in Ga. for alleged violations of 42-1-12 without out First hearing Hearings in Florida to see did Ridley qualify to be under the Fla sanction 10/1/97 or had repetitive felony convictions and F.S. 800.04(5), O.C.G.A. 42-1-12 (9)(A) crimes against minors.
(6) Ridley have begged the Public Defenders office to file petitions to abide by Fla. 7/29/96 Contractor withdraw but refused. Filed numerous Habeas, 1983's in Courts in Ala. Middle Dist. Middle Dist of Ga. Albany & Macon, N. Dist of Fla, Esp Co. Superior Courts. [Bay Co Fla guard was barred to file] Ridley if true would had to been sentence under 42USCS 16901 Fla. case interstate jurisdiction of Authority

1232
Witte v. State, 744 So.2d ~~402~~ (1999) 24 Fla L. weekly D 2546; Craig KANS v. Craig KANS, 382 So.2d 1197, 1203 (Fla. 1980); 943.0435 (2) of A.C. (1)(A)(2)-(3); Doe v. Moore, 2005 US LEXIS 8239 (US Nov. 7 2005); to qualify as a S.O. under 943.0435, a person is only required in relevant part, to have been convicted previously under 800.04 see F.S. 943.0435 (1)(A). see U.S. v. Carver, 348 Fed Appx 449, 209 US App. LEXIS 21725 (11th Cir. Fla 2009), 42 USCS 14671. There is no case law where one case of lapse from 1995 to date where under 42-1-12 (9)(A) F.S. 943, 0435 where the alleged victim was a 20 yrs old adult that you qualify to be under those laws without Due Process see, 42-1-12 (9)(A); Ga. L. 2006, P. 3794 HB 1059, Humphrey v. Wilson 282 Ga. 526, 652 S.E.2d 501, 2007 Ga LEXIS 774; 2007 Fulton County D. Rep 3278, 507 A1481, 507 A1606, Oct. 26, 2007 decided, Boysen v. State, 308 Ga App. 266, 707 S.E.2d 158, Ga Ct App. 2012

Mumma v. State, 266 Ga. 3, C463 S.E.2d 472 (1995)
Hollier v. State, 298 Ga. App. 1, 679 S.E. 2d 47 (Ga. Ct. App. 2009), aff'd 287 Ga. 389, 696 S.E. 2d 642 210 Ga. Lexis 497 (Ga. 2010); 285 Ga. App. at 68.
Kingsley v. State, 268 Ga. App. 729, 653 S.E. 2d 78 (Ga. Ct. App. 2004); Helford v. State, 268 Ga. App. 436, 602 S.E. 2d 198 (Ga. Ct. App. 2004); Artway 876 F. Supp. 666 (1995); Stephens v. State, RSA7, Illegally, 305 Ga. App. 399 (2010)
Taylor v. State, 364 Ga. App. 878 (2016); Use of physical violence Article 3 of Chapter 6 Smith v. Williams 273 Ga. 778 (2004) Brockledge v. Perry (1974); Baker v. Wingo (1972); Plea is a Contract, Brown v. State Case No. 13A1440 (Oct. 9, 2013); Rule 33.10, O.C.G.A. 43-50+51, Fed. R. Crim. P. Rule 11; Bensley v. US (1998); State v. Germany 246 Ga. 455 (1980); Clay 273 Ga. App. 672 (2005); US v. Ajay 935 F. Supp. 90-98 (PA 7, 1996); State v. Stevens 452 So. 2d 289, 291 (La. Ct. App. 1984); guilty Plea Rea v. State, 76 So. 2d 1003, 1004 (Fla. Dist. Ct. App. 1999).

CONCLUSION / Relief.

Petitioner have shown clear law why injunction must be issued on emergency basis and mandamus to abide by Fla Contract and withdraw this Plea for Fla Hearing before a Fla Judge as required by law. Executed this 18th day of December 2014

Respectfully Submitted
 Mr. Edward Tyone Ridley 570139
 Mr. Edward Tyone Ridley, 570139
 Johnson State Prison
 P.O. Box 72344
 Wrightsville, Ga. 31096

Page (4)

Certificate of service

I, do hereby certify that I have on below date served a carbon copy of the Emergency Injunction, Mandamus, Writ Habeas Corpus, 17-9-11 by placing same in stamped addressed envelope to secure first-class delivery upon
Executed this 17th day of December 2014.

Mrs Denise Faching
District A Homey
Crisp Co. Courthouse
P.O. Box 5510
Cordele, Ga. 31010-5510

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 23, 2014

To: Mr. Said Mobin, Columbia County Detention Center, 2273 County Camp Road, Post Office Box 310, Appling, Georgia 30802

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

Court of Appeals Case Number and Style: _____

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

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

IN THE COURT OF APPEALS OF GA, 47 TRINITY AVE., SW, SUITE 501, ATLANTA, GA 3

FROM

THE SUPERIOR COURT OF COLUMBIA COUNTY, EVANS, GEORGIA (GA) 30809

APPEAL

Date: 12/15/2014

CASE# CAFN 2010D0748

2014CR 0612

- 1- AS explained in attached APPELLANT ; AFFIDAVIT OF SAID MOBIN "I" dated 10/28/14; SECOND AFFIDAVIT dated 11/24/2014 with the Indigence AFFIDAVIT, the APPEALS COURT has JURISDICTION when the Lower Court fabricates Personal Laws from the BENCH to BREAK GA LAWS to fraudulently conspire to steal a plaintiff ~ \$600,000.00 as mine and deny a plaintiff WRIT OF HABEAS CORPUS filed on 8/6/14, and denied on 11/17/14 to coverup the Fraud in Violations of OCEGA, Sect. 17-7-5
- 2- J. David Roper "Roper" has concocted from the BENCH contents of the OCEGA, Sect. 19-5-13 et. Seq., as detailed in the attached Affidavits to coverup the fraud and falsified the Official Court orders.
- 3- Roper has of 12/20/12 to coverup the Sect. 19-3-9 et. Seq. from the Order of my ~ \$600,000.00 - as detailed in Affidavit of my ~ \$600,000.00 - as detailed in Affidavit to falsify court orders as detailed in the attached referring to my Separate property as "Marital" to cover-up the fraudulent thefts of my ~ \$600,000.00 -
- 4- Roper has in the attached "Marital" to cover-up the fraudulent thefts of my ~ \$600,000.00 -
- 5- The OCEGA, Sect. 17-7-50 et. Seq. require; Bail Bond be set after [90] days or [180] days even for violent crime. Is filing a civil lawsuit filed ~ (5) yrs. ago a violent crime to be incarcerated since 10/15/13 ~ 13 months without a BOND? If not, grant a BOND for me on O.R., please.
- 6- A Notice of Appeal is already filed in the lower court on 5/16/13 and it is requested; the Clerk of Appeals Court Order any Pleadings to be sent by the lower court to the Appeals Court. It is also requested; Clerk of the Appeals Court submit a copy to the Chamber of the Chief Justice or any other authority to expedite granting this WRIT OF HABEAS CORPUS to be Released on O.R. Per Sect. 17-7-50, OCEGA and return a court Stamped copy as receipt confirmation, kindly.

This was placed in my Inbox. I do not think it's an application.

Respect fully,
Mobin

AFFIDAVIT OF SAID MOBIN

STATE OF GA)
COUNTY OF COLUMBIA)

IN THE SUPERIOR COURT, EVANS, GA 30804

2014 OCT 30 PM 4:15
CINDY MASON CLERK
COLUMBIA COUNTY GEORGIA
COPY

STATE OF GA V. SAID MOBIN

Comes now THE AFFIANT SAID MOBIN, first being sworn, deposes and states:

- 1- That the Affiant is over age 18, that he just filed a civil lawsuit ~ 5 yrs ago and requested to be dismissed and the Affiant is of a sound mind.
- 2- That the Affiant Attorney (Att.) based on the OCGA, Sect. 19-3-9, GA Constitution; told the Affiant in 2010 that separate property is not subject to equitable division in divorce. That GA constitution Art. I, Sect. I, Para. XXVI, US. Constitution Amendment 14 et. Seq. as well as OCGA, Sect. 19-5-13; do not require ^{any} inheritance or property brought into the marriage be subject to equitable division. That marital property is subject to equitable division only if the spouse equally contributed based on the OCGA, Sect. 18-2-3. That the fees of the opposing PRO BONO John RB Long "Long" by Plaintiff; which Long went for gambling to NV and demanded ~ \$2800 from Affiant.
- 3- That the Affiant specifically like dozens of times in writing in the past; in the PETITION filed in the Court at the Hearing of 8/6/14; brought to the attention of Hon. J. David Roper "Roper" that ~ (\$50K) by Long but; ~ (\$600K) of the Affiant SEPARATE property fraudulently; is stolen from his Accounts in the Affiant absence. That Roper did not let Affiant to Rebuttal his comments which GA Supreme Court automatically deny an Appeal if not prepared in proper format by an att. and has stated in the transcript that the Affiant stolen money is gone or spent by the conspirators. That the Affiant mailed to Roper chamber copy of pleadings which filed in the court. That the conspirators have knowingly, intentionally by corruption, willful perjury and ABUSE of official capacity of the Position have committed the offense of 1st degree Felony in violation of OCGA 16-8-1 et. Seq. to steal Affiant ~ (\$600K) in his absence. Therefore; Roper name should be cancelled from the witness list or to Preside in any related cases both civil or criminal and failed to RECUSE himself as demanded in 2011 also because of conflict of interest.
- 4- That as the Records in case # 2010 D 0748 reveal, Affiant Franklin Co. Account was OPENED on June 30, 1988. That RECORDED & INDEXED IN MINUTES 10-31-14

Acc. was OPENED on June 8, 1987. That Mr. Jud Marshall; Rep# 0009530, Down town, Las Vegas Branch# 00418, Merrill Lynch Co. Dealer# 00250, OPENED an Acc. for Affiant in 1986. When Mr. Marshall moved to Summerlin Br., Affiant Acc. was closed which the Affiant moved the money to Morgan Stanley Co. on June 6, 2001.

That the Affiant marriage on the Marriage Contract or Certificate is July 16, 2000 which the stolen money is the Affiant separate property. Absolutely nothing was contributed by the Affiant spouse even in the (\$1000-) shown in Morgan Stanley Co. Letter of 7/29/2013 in a separate Acc. which was correctly reported to Long.

Therefore; Affiant should not or can not be charged for false swearing in case 2014 CR 0612 or any other cases.

The Affiant can tell that the counts are written by Long and presented to the grand jury which they were not aware of the theft, fraud and BRIBERY as the four counts are similar; Related to the financial matters which should be dropped or dismissed as even the Affiant spouse in the court in 2010 stated that the Affiant was not working till late 2007.

That the Affiant has not seen the child since kidnapped in 2010 and has not or will never abandon him; which all (5) charges including the contempt should be dropped or Dismissed.

5- Motivated by Pecuniary, BRIBE, Kick back, fraud and unjust enrichment, the conspirators have abused official Capacity of the Position for personal gain to steal Affiant Separate Property fraudulently in violations of OCGA, Sect. 19-3-9, 19-5-13, 45-10-1 (C), GA and U.S. constitutions which is 1st degree Felony offense base on Sect. 16-8-1 et. Seq. and no body should be ABOVE the Laws to steal an Appellant or Plaintiff money and incarcerate him for more than a year (10/15/2013) or longer to DEATH.

Motivated by Pecuniary for personal benefits; the conspirators even falsified the contents of an established Law, OCGA, Sect. 19-5-13 in the order of 12/20/2012 to BREAK the Laws of GA General Assembly and the U.S. constitution to justify the fraud which have committed the offense of felony Per Sect. 16-8-1 et. Seq. Refer to P. 10, L-11 of the order.

That Motivated by Kick back, BRIBE, economy, the conspirators also called Falsely Affiant Separate Property illegally assets in the order of 12/20/12 to justify the fraudulent theft by deception which have committed the offence of 1st degree felony Per Sect. 16-8-1 et. Seq. Refer to P. 10, L-9 of the order. No body should be ABOVE the GA Laws to steal. That the conspirators have knowingly, intentionally, corruptly and by willfull perjury Stolen ~ \$800k of the Victim Affiant by ABUSING Power of the Position for Personal benefits.

6- That after stealing the Affiant ~ (\$600K) separate Property, the conspirators came up with another strategy as the professional thieves to commit another scheme to ABUSE power of position to detain the Affiant forever till the Victim DEATH to SPLIT the money; conveniently. That the Affiant has been held since 10/15/2013; JUST for filing a Civil Suit ~ 5 yrs ago.

7- That Nikah Nama means Marriage Contract or certificate. That Mahar means Prenuptial or antenuptial Agreement. That the Affiant MAXIMUM Payment to his spouse to drive her off is PAK Rs. 100K or about ~ \$1600 - which the Affiant brought to the Roper attention again at the Hearing of 8/6/2014 which the transcript proves.

8- That Domicile is defined as a permanent place of Abode to return even absent temporarily. That the Affiant and the child Domicile is NV. That a civil action be filed in the child County in NV per occa, 19-9-67 et. seq. That the Affiant spouse IRA and Bank accounts were separate and the Affiant paid for all of the expenses. That the Affiant has lived in NV for more than (30) yrs. That the Affiant has not received court papers including the warrants ~ since 12/30/2010 until 10/15/2013 and Affiant has not harmed any body including Long for 5 yrs.

9- That the conspirators ^{charges} are Malice and Long Affidavit of 12/16/2013 is false which has committed the offense of Perjury Felony per occa, Sect. 51-7-40, 16-10-70, 16-8-1 et. seq. which Long name be cancelled from the witness list. That Long promised NOT to steal if the Affiant give his SS# and birthdate to him which Long Lied and stole Affiant separate property from the Affiant accounts which has committed the offense of perjury Felony per 16-8-1 et. seq. Refer to the deposition of 11/8/2010, P. 62, L 2.

FURTHER YOUR AFFIANT SAYETH NOT.

Sworn to and subscribed before me

This the 28th day of October, 2014.

Said Mobin
SAID MOBIN

Nupur A Will
Notary Public

SECOND AFFIDAVIT OF SAID MOBIN

STATE OF GA }
COUNTY OF COLUMBIA }

IN THE SUPERIOR COURT, EVANS, GA 30804

STATE OF GA V. SAID MOBIN

Comes now The AFFIANT, SAID MOBIN, first being sworn, deposes and states:

A- That the Affiant "I" is over age 18 with sound mind that he just filed a civil lawsuit # 2010D 0748, ~5 yrs ago and participated by demanding dozens of times as the records prove; to be dismissed as detailed in the Affidavit of 28 Oct. 2014. That the Affiant is an innocent victim of criminal fraud held to DEATH; Long forgotten since 10/15/2013.

That Motivated by Pecuniary gain, Bribe, Kick back and unjust enrichment; the conspirators have continued the ABUSIVE Litigations in my absence to steal and split ~\$600K of my separate property by naked abuse of the official Capacity of the positions to commit the fraudulent Scheme to incarcerate me to DEATH which is a Murder attempt or 1st degree Criminal offense Felony per OCGA, Sect. 16-8-1 et. seq. and Sect. 17-7-40 et. seq. as well as 45-10-1 (A) et. seq.

B- That the Affiant has never defrauded any body as Ponzi Scheme.

C- That Motivated by Economy, Kick back and Bribe; the conspirators has falsified Order of June 6, 2013 also by ^{mis-}representing the Affiant Separate Property as "marital" Property on P.1 which is a Lie to justify the fraudulent theft as they have misrepresented in the Order of 12/20/2012 on page 4, P. 10 (twice) and Page 14 "both Parties aquired" which none of the ~\$600K stolen was aquired by my spouse. The more the stolen money; the more the Bribe to the Conspirators. That the Conspirators

have knowingly, intentionally by willful misconduct, corruption, forgery and naked ABUSE of official capacity of

the positions have committed multiple criminal 1st degree felony in fraudulently stealing Affiant's \$600K separate property to pocket the secret kickback in violations of OCA, Sect. 16-5-41, 16-8-1, 16-10-70 and 51-7-40 et. seq.

That OCA, Sect. 15-6-6 require both John RB Long "Long" and J. David Roper "Roper" to be under the Oath to follow the GA and the US Laws and constitutions guaranteeing life, liberty, property to live in any State including NV, not to make misleading false statement which is

false swearing to falsify an order or a statute as 19-5-13 in the order of 12/20/2012, falsified.

D - That the Affiant under OCA, Sect. 17-7-40 et. seq., GA Constitution Art. VI, Sect. VII, Para. VII et. seq. apply in the court

for arrest warrant of the conspirators as theft is a probable cause via GA and US grand juries indictments by appointing a special prosecutor to handle the fraud as no body should be ABOVE the laws to defraud and incarcerate the innocent VICTIM to DEATH which is a Murder attempt offense Felony, Sect. 17-4-40 et. seq. require an Affidavit only.

E - That Long lied in 5/6/2014 hearing committed perjury Felony offense that he didn't even had my \$50K

F - That a neutral Judge compensate the Affiant under OCA, Sect. 16-14-6 (b) et. seq. That all of the false charges against the Affiant be dismissed including the contempt. That all of the orders of Roper in civil lawsuit be SET ASIDE as detailed in the petition filed on 8/6/2014.

That Roper be Removed or Recused (filed on 2/21/12) from case# 2010 D 0748 or any civil or criminal case related to the Affiant based on conflict of interest.

That any reasonable person under Canon 3 E (1), 25.4 [C], 27.7 et seq. questions Roper impartiality; after the fraudulent theft of my ~ \$600K separate Property.

That if the conspirators BREAK GA Laws in violations of 45-10-1, 15-1-7 et seq, they should close GA General Assembly and U.S. Congress also

FURTHER YOUR AFFIANT SAYETH NOT.

Said Mobin
SAID MOBIN

Sworn to and subscribed before me

This the 24TH day of November, 2014.

James Albert Paschel
Notary Public

MY COMMISSION EXPIRES: 03-04-2016

INDIGENCE AFFIDAVIT OF SAID MOBIN

IN THE SUPERIOR COURT
EVANS, GA 30809

SAID MOBIN)
)
Appellant.)
Vs.)
)
SOHAILA MOBIN)
Appellee.)
_____)

COPY

2013 JUN -6 PM 1:41
CLERK OF SUPERIOR
COURTS
FILED FOR RECORD
COLUMBIA COUNTY GEORGIA

Court Case#: C.A.F.N. 2010D0748

Comes now Affiant SAID MOBIN; first being sworn, deposes and states:

- 1- That John R.B. Long, Augusta, GA; has colluded and stolen or frozen my assets in my absence as proven by (Exh.-1) \$111,163.65.
 - 2- That \$31,221.95 of the Affiant stolen assets should be in the Superior Court, Evans, GA; as proven by (Exh.-2).
 - 3- That the Affiant is indigent and financially unable to pay the filing fees and other costs which should be waived by the Court of Appeals until Affiant's stolen assets are returned and unfrozen by the Superior Court or Appeals Court.
 - 4- That in the alternative, the Courts should make Long to pay the fees and costs from the Affiant stolen assets or the Superior Court should pay the fees and costs from \$31,221.95 of the Affiant's money. That the Pauper's or Indigence Affidavit should be send to the Appeals Court, GA; with all of the records by the Superior Court.
 - 5- That the Affiant does not have a job, house or an apartment at this time because of the theft and the Affiant will call you from a pay phone about the results. That the statements of this Affidavit are true.
- FURTHER YOUR AFFIANT SAYETH NAUGHT.

Said Mobin
SAID MOBIN

Sworn to and subscribed before me

This the 3rd day of June, 2013.

Vianey Ortiz Notary Public

VIANEY ORTIZ
NOTARY PUBLIC
STATE OF NEVADA
Appt. No. 00-63160-1
My Appt. Expires Sept. 23, 2016

RECORDED & SCANNED IN
DATE 6-7-13

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 24, 2014

To: Mr. Sydney Mangaroo, Jr., 95 Randall Avenue 1L, Freeport, New York 11520

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

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name. Enclosed also is your check #876 drawn on CitiBank, N.A., payable to the order of the Court of Appeals of Georgia in the amount of \$305.00.
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37. Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service. A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained. An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate. An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____. The Court of Appeals divesting this Court of jurisdiction. The remittitur issued on _____.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court. As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing. If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

INTOWN REAL ESTATE HOLDINGS, LLC,)
)
Petitioner,)
)
IN RE:) CIVIL ACTION NO 14A04683-5
)
)
THAT PARCEL OF LAND KNOWN)
AS 940 SWAN RIDGE COURT)
(TAZ PARCEL # r5102-271),)
SYDNEY MANGAROO, UNKNOWN)
HEIRS OF SYDNEY MANGAROO, and)
RICHARD STEELE, solely in his official)
Capacity as TAX COMMISSIONER OF)
GWINNET COUNTY,)
)
Respondents.)

CIVIL ACTION NO 14A04683-5

RECEIVED IN OFFICE
2014 DEC 23 PM 2:55
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

NOTICE OF APPEAL

Notice is given that Sydney Mangaroo Jr., a respondent in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court. The date ordered by the Judge was November 19th, 2014. The date stamped on the order was November 21, 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.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is a tax lien buyer is claiming he is entitled to \$93,000 tax overage on the sale of property and the Tax Commissioner of Gwinnet County received the claim for the tax overage from Mr. Mangaroo in a timely manner. Gwinnet County Tax Commissioner failed to do it's statutory duty as a financial trustee of the overage funds. Mr. Mangaroo believe that this type of case is not reserved to the Georgia Supreme Court.

Respectfully submitted,

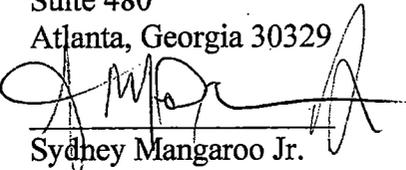
Sydney Mangaroo Jr.
95 Randall Ave 1L
Freeport, NY 11520

Certificate of Service

A true copy was sent to the following on this the 18 day of December, 2014.

Richard Steele, Tax Commissioner of Gwinnett County
75 Langley Drive
Lawrenceville, GA 30046

John C. Clark
Clark Caskey, LLC
17 Executive Park Drive
Suite 480
Atlanta, Georgia 30329



Sydney Mangaroo Jr.



Sidney D. Mangrove
99 Randall Ave. #12
Freeport, NY 11520

1-8-210
Pay to the order of
Payee's A/C Number

12-18 2014

876

Pay to the order of Courts of Appeals of Georgia \$ 305.00

Three Hundred 00/100 Dollars



CITIBANK, N.A.
(800) 374-9700
WWW.CITIBANK.COM

Sidney D. Mangrove

For

⑆021000089⑆ 78529748 0876

MP

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 29, 2014

To: Mr. Aaron Obeginski, GDC000357597 H2-7B, Telfair State Prison, Post Office Box 549, Helena, Georgia 31037

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

Court of Appeals Case Number and Style: _____

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

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

Friday, December 12th, 2014

Dear Clerk;

Could please file this NOTICE OF Appeal, MOTION FOR LEAVE TO PROCEED INFORMA PAUPERIS, and CERTIFICATE OF SERVICE in order to appeal the judgement in the lower Superior Court regarding an arrest warrant hearing.

I'm having difficulty with the prison here holding my mail, and trying to default my efforts, So could you also send me a stamped "FILED" copy of the inclosed documents.

Thank you for your help!

Respectfully; Aaron

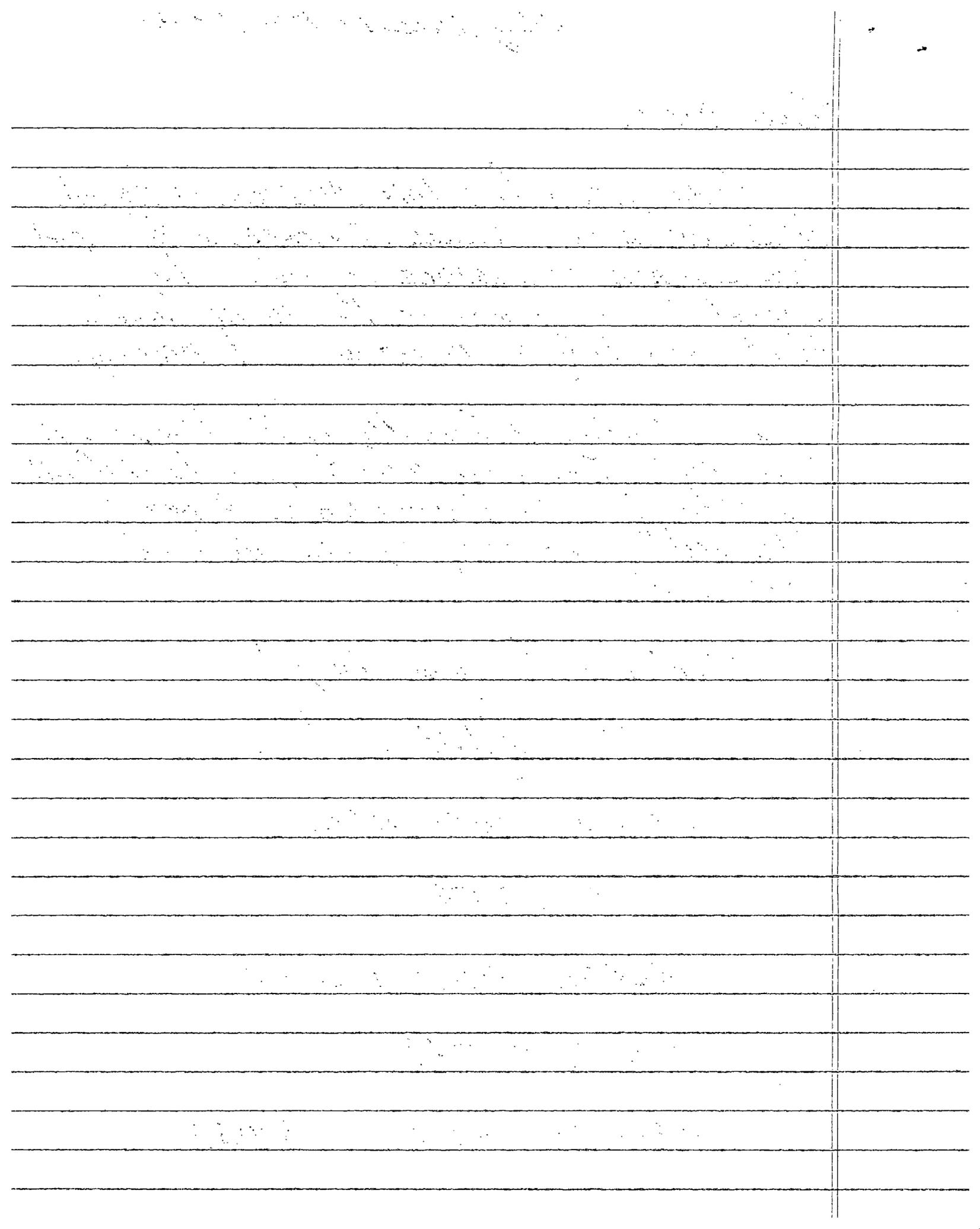
AARON OBEGINSKI

1000357597

TELFAIR STATE PRISON

P.O. Box 549

HELENA, GEORGIA 31037



IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

IN RE: ARREST WARRANT HEARINGS ON

CHRISTOPHER MARK HEGWOOD

NOVEMBER 14TH, 2014.

NOTICE OF APPEAL

RECEIVED IN OFFICE

2014 DEC 29 PM 12:31

CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Now comes ARAS OBEGINSKI, Affiant in the
above style hearing, Appealing Judge Todd
M. OTI's decision from the Superior Court
of Newton County, on November 14th, 2014.

It is this court in which holds jurisdiction
to here such an appeal. Affiant remains
indigent and request this court to proceed
IN FORMA PAUPERIS, As lower has already.

Affiant gave Notice of Appeal to the Superior
Court of Newton County on November 20th, 2014,
And amended that Notice today, along
with notifying this court of appellant/
affiant's intention.

Dated this 12th Day of December, 2014.
Signed: *Aras Obeginski*

ARAS OBEGINSKI #1000357597

TELFAR STATE PRISON

P.O. Box 549, Helena Georgia 31037

IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

IN RE: ARREST WARRANT HEARING ON
CHRISTOPHER MARK HEGWOOD
NOVEMBER 14TH, 2014.

NOTICE OF APPEAL

Now comes AARON OBEGINSKI, Affiant in the above style hearing, Appealing Judge JOHN M. OTT's decision from the SUPERIOR COURT OF NEWTON COUNTY, on NOVEMBER 14TH, 2014.

It is this court in which holds jurisdiction to here such an appeal. Affiant remains indigent and request this court to proceed IN FORMA PAUPERIS, As lower has already.

Affiant gave Notice of Appeal to the Superior Court of Newton County on NOVEMBER 20TH, 2014, And ammended that NOTICE today, along with notifying this court of appellent/affiant's intention.

Dated this 12TH Day of DECEMBER, 2014.
Signed: Aaron Obeginski

AARON OBEGINSKI #1000357597
TELFAIR STATE PRISON
P.O. BOX 549, HELENA GEORGIA 31037

IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

I/RE: ARREST WARRANT HEARING ON

CHRISTOPHER MARK HEGWOOD

NOVEMBER 14TH 2014

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Now comes Aaron Obeginski, Appellant/Affiant
in the above styled hearing requesting this
court to allow the docketing of this appeal
without paying any fee's associated with
this filing.

I have proceeded to both trial and appeal
on criminal charges, and remain illegally incar-
cerated at this time. My indigency is
well established, therefore I make this
request.

I swear under penalty of perjury the
above statements are true and correct.
Sworn this 12TH day of December, 2014.
Signed: Aaron Obeginski

Aaron Obeginski #100357597

TELEPHONIC STATE PRISON

P.O. Box 549

HELENA, GEORGIA 31037

IN THE GEORGIA COURT OF APPEALS

STATE OF GEORGIA

I, RE: ARREST WARRANT HEARING, ON

CHRISTOPHER MARK HEGWOOD

NOVEMBER 14TH 2014

MOTION FOR LEAVE TO PROCEED INFORMALLY

Now comes ARON OBEGINSKI, Appellant/Affiant in the above styled hearing requesting this court to allow the docketing of this appeal without paying any fee's associated with this filing.

I have proceeded to both trial and appeal on criminal charges, and remain illegally incarcerated at this time. My indigency is well established, therefore I make this request.

I swear under penalty of perjury the above statements are true and correct. Sworn this 12th day of December, 2014.
Sign'd: Aron Obeginski

ARON OBEGINSKI #100357597

TELEPHONIC STATE PRISON

P.O. BOX 549

HELENA, GEORGIA 31037

IN THE GEORGIA COURT OF APPEALS
STATE OF GEORGIA

IN RE: ARREST WARRANT HEARING ON
CHRISTOPHER MARK HEGWOOD
NOVEMBER 14TH, 2014.

CERTIFICATE OF SERVICE

This is to certify that this day I
have placed a duplicate copy of A NOTICE
OF APPEAL, and MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS in the imates postal
Box with affixed U.S. Postage to the
address as follows:

DISTRICT ATTORNEY OFFICE
1137 USHER STREET
Room 313
COVINGTON, GEORGIA 30014

Dated this 12TH day of DECEMBER 2014.
Signed: Aaron Obeginski

AARON OBEGINSKI
1000357597
TELFAIR STATE PRISON
P.O. Box 549
HELENA, GEORGIA 31037



Court of Appeals of Georgia

December 30, 2014

TO: Mr. Charles E. Thompson, 1254 Third Street, Macon, Georgia 31201

RE: **A15D0166. Charles E. Thompson v. Robert Reichert, et al.**

CHECK RETURN

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

CASE STATUS - APPLICATION GRANTED

- Discretionary Application, A15D0166, was granted by this Court on December 15, 2014. A direct appeal has not been filed with this Court as of December 29, 2014.**

CASE STATUS - PENDING

- The above referenced appeal is in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

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

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

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

12

IN THE COURT OF APPEALS OF GEORGIA
STATE OF GEORGIA

Charles E. Thompson
Plaintiff
FILED IN OFFICE
DEC 20 2014
Application No: #15D0166

Robert Reynolds et al.
Defendants
APPEALS OF GEORGIA
Civil Action No: 12CV-58359

Motion For A Page Extension
Briar
cc

comes now Plaintiff,
and ~~ask~~ ask the the
to present his Brief,
because you're so busy
from up to and including
US pages, I wish to
I may find within 50 pages but because of a
in-
my brief more compact with the 55 pages. And I ask
The court to view all my allegations as a unit in
standards related matters.
Sigh. Charles E. Thompson Date: 12-19-2014

Application 12/15/14
No Direct filed with
the court as of
12/29/14.
I wish a total of
page extension
in matters
permission
in matters
comes now Plaintiff,
and ask the the
to present his Brief,
because you're so busy
from up to and including
US pages, I wish to
I may find within 50 pages but because of a
in-
my brief more compact with the 55 pages. And I ask
The court to view all my allegations as a unit in
standards related matters.
Sigh. Charles E. Thompson Date: 12-19-2014

- CERTIFICATE OF SERVICE -

This is to certify that I have a true and correct copy of this motion on the pages listed below:

Chambless Higgins, Richardson
Katz & Griggs, LLP
P.O. Box 18096
3920 ARNOLD ROAD, STE 405
MAY, GA 31209-8096

This the 19th day of December 2014,

SIGN: Charles E. Thompson

RECEIVED IN OFFICE

2014 DEC 23 AM 11:54

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



Court of Appeals of Georgia

December 30, 2014

TO: Mr. Charles E. Thompson, 1254 Third Street, Macon, Georgia 31201

RE: **A15D0166. Charles E. Thompson v. Robert Reichert, et al.**

CHECK RETURN

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- Discretionary Application, A15D0166, was granted by this Court on December 15, 2014. A direct appeal has not been filed with this Court as of December 29, 2014.**

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

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

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

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

December 31, 2013

Mr. Michael K. Murphy
7NE502
DeKalb County Jail
4425 Memorial Drive
Decatur, Georgia 30032

Dear Mr. Murphy:

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 in your name, all communications regarding the status of a case should be directed to your attorney of record or to the trial court from which you are appealing.

Sincerely,



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

SEC/ld

(1)

RECEIVED IN OFFICE

2013 DEC 26 PM 4:02

CLERK/COURT ADMINISTRATOR
GOVT OF APPEALS OF GA

MICHAEL K. MURPHY

4425 MEMORIAL DR.

DECATUR GA 30032.

JUDGMENT NUMBER
13 CR 1401-1

GEORGIA COURT OF APPEALS.

I'VE BEEN INCARCERATED HERE IN DEKALB COUNTY JAIL FOR ALMOST 20 MONTHS NOW. THE PUBLIC DEFENDER IS MRS. GAYLE B. MURRAY. SINCE MAY 18, 2013 IS THE DATE ALL OF THIS STARTED, (9) NINE MONTHS PASSED AND I WAS INDICTED, (FEB. 2013) LESS THAN A MONTH MARCH 4, 2013 I WAS TAKEN TO COURT FOR MY ARRAIGNMENT. AT THIS ARRAIGNMENT I TOLD MRS. MURRAY TO FILE FOR BREEDY TRIAL. MRS. MURRAY DIDN'T FILE NOR DID I TALK WITH HER FOR ALMOST TWO MONTHS, I SENT LETTERS, POSTCARDS AND I EVEN HAD SOMEONE TO CALL AND I EVEN TOLD OTHER PUBLIC DEFENDERS TO ASK HER TO CALL. APRIL 15 2013 I FILED DEMAND FOR BREEDY TRIAL, WHICH I'M SENDING YOU A COPY/ I EVEN THOUGHT AN ORDER (HAB) MAY BE SIGNED, IT IS NOT CONSIDERED TO HAVE BEEN ENTERED AND, THUS, DOES NOT BECOME EFFECTIVE UNTIL IT IS FILED WITH THE CLERK, MY DEMAND FOR BREEDY TRIAL WAS FILED WITH THE CLERK OF THE COURT, THATS WAS 8 MONTHS AGO. NO ONE HAS HURTIJN MY CASE THE ONLY STATEMENT THE VICTIM WROTE IS ONE I'M ALSO SENDING WITH THIS LETTER.

8/28/13 I FILED

FORMA PAUPERIS FOR HARBANS CORPUS, WHICH I'M ALSO SENDING COPIES OF THEM AND THE LETTER DEMANDIN IT. THE LAST 3 PAGES OF THE FORMA PAUPERIS TELLS YOU WHAT IVE HAD ON MY

(2)

ACCOUNT, WHICH IT'S CALLED WELFARE (INDIGENT) WHICH I'M A POOR MAN SO WHEN I NEED T-SHIRTS, UNDERWARE, TOOTH PASTE, SHOWER SHOES, BOOKS, DEODORANT, STAMPED POSTCARDS + STAMPED ENVELOPE, AND WHEN I GET STAMPED ENVELOPES I'M SPENDING OUT SOMETHING LEGAL. SO THIS IS WHY I CAN'T MOVE FORWARD WITH THE FORMA PAUPERIS CAUSE I CAN'T PAY BACK THE MONEY I OWE, WHAT AM I TO DO NOW? MUST I JUST KEEP ON STAYING OVER HERE IN DEKALB COUNTY JAIL AND MY RIGHTS BE WALKED ALL OVER.

BACK IN DEPT OF 2013 I WROTE A LETTER TO THE BAR (STATE BAR) ABOUT MRS MURRAY I TOLD THEM EVERYTHING, I GOT A LETTER BACK FROM THE STATE BAR SAYING IT DOES NOT APPEAR THAT THE ATTORNEY HAS VIOLATED THE GEORGIA RULES OF PROFESSIONAL CONDUCT. I WOULDN'T HAVE WROTE THE BAR IF IT WASN'T TRUE. MRS. MURRAY HAS ONLY CAME TO SEE ME ONCE FACE TO FACE AT THE JAIL AND THAT WAS IN MARCH 2013 A DAY OR SO WHEN I CAME FROM THE ARRAIGNMENT. SHE WON'T FILE ANY MOTION OTHER THAN A MOTION TO REDUCE BOND. WHEN SHE ASKED WHAT I WANTED HER TO DO, "I TOLD HER I NEEDED HER HELP I'M HERE FOR SOMETHING I DIDN'T DO." SHE ALWAYS ACTS REALLY CALLOUSE AN ATTORNEY MUST PROVIDE COMPETENT REPRESENTATION FOR CLIENT, AND MUST ACT WITH REASONABLE DILIGENCE AND PROMPTNESS IN REPRESENTING A CLIENT. STATE BAR RULE 1.1.

*A DEFENDENT STANDS ACQUITTED AS A MATTER OF LAW WHEN THE STATE FAILS TO COMPLY WITH A SPEEDY TRIAL DEMAND 17-7-170 AND SUCH A DEFENDENT IS ENTITLED TO FULL DOUBLE JEOPARDY PROTECTION (FIFTH AMENDMENT, U.S. CONSTITUTION) AGAINST THE

(3)

ORDER OF THE TRIAL ITSELF BECAUSE THE STATUTE, THE DEFENDENT STANDS ACQUITTED. IT IS MY RESPONSIBILITY TO ASSERT MY RIGHT TO A SPEEDY TRIAL.

SPEEDY TRIAL STATUTE GIVES TECHNICAL RIGHT TO DEMAND ACQUITTAL TO ONE WHO HAS MADE TIMELY SPEEDY TRIAL DEMAND AFTER INDICTMENT OR ACCUSATION BUT HAS NOT BEEN TRIED WITHIN CERTAIN TIME, BUT EVEN WHERE NO INDICTMENT OR ACCUSATION HAS BEEN FILED, TRIAL COURT MAY DETERMINE THAT CRIMINAL DEFENDANT HAS BEEN DENIED SPEEDY TRIAL UNDER SIXTH AMENDMENT U.S.C.A CONST. AMEND. 6 O.C.G.A 17-7-170.

BARKER V. WINGO / (1) WHETHER DELAY BEFORE TRIAL WAS UNCOMMONLY LONG, (2) WHETHER THE STATE OR CRIMINAL DEFENDANT IS MORE TO BLAME FOR THAT DELAY; (3) WHETHER IN DUE COURSE, THE DEFENDANT ASSERTED THE RIGHT TO A SPEEDY TRIAL AND (4) WHETHER HE OR SHE SUFFERED PREJUDICE AS THE DELAY'S RESULT AS A DELAY OF ONE YEAR OR MORE HAS PREVIOUSLY BEEN FOUND TO RAISE A PRESUMPTION OF PREJUDICE, I'VE BEEN HERE ALMOST 20 MONTHS, THE BARKER FACTORS MUST BE CONSIDERED - CONEY V. STATE.

LASTLY, THERE'S NO EVIDENCE NOTHING BUT HEAR SAY NO ONE HURT, JUST ME IN JAIL, A STATEMENT WAS TAKEN FROM MRS. MURRAY WHICH SHE READ IN OPEN COURT OCT 23 2013 AT THE MOTION TO REDUCE BOND HEARING AND I HAD TO ASK HER TO READ IT.

I PRAY THAT THE COURT BLESS ME WITH RELIEF OF THIS ANXIETY.

MICHAEL K. MURRAY
M. K. Murphy
DEC 19 2013

★ affidavit ★

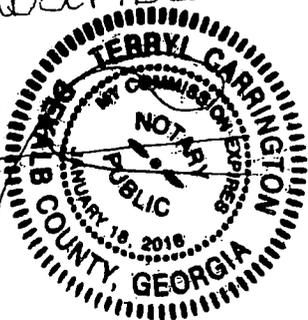
I Larry Gantt write out this affidavit to clear the record. There was only a fight me and Michael had because of a misunderstanding. It's been a year now and the truth needs to be told, and by coming forward now I'm just clearing him of those things as such: There was no kind of weapon or weapons used or showed, NO - box cutter, knife, handgun, TREE Limb, OR PEPPER spray, and I pray the District Attorney ROBERT JAMES OF DEKALB COUNTY GEORGIA Pardon Michael Murphy of the Accusations, I haven't been made to write any of this. It's been too long and the truth must be told.

This day 22 month July 2013.

Signed Larry Gantt

Sworn to and subscribed before me, this 22 day of July 2013.

Notary TE



January 18, 2016
My Commission Expires

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

December 31, 2013

Mr. Carey Lecell Ross
GDC440745
Hays State Prison
Post Office Box 668
Trion, Georgia 30753

RE: A13A1506. Carey Lecell Ross v. The State

Dear Mr. Ross:

The above appeal was disposed by opinion on September 20, 2013. The Court of Appeals affirmed the judgment of the trial court on September 5, 2013. The remittitur issued on September 20, 2013, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

You may want to contact your attorney of record, Mr. Green Moore, to obtain a copy of the opinion which consists of seven pages. If you would like to request a copy of the opinion from this Court, it will cost \$10.50. This Court charges \$1.50 per page for copying fees.

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

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

I am returning your Brief of Appellant document to you.

Sincerely,



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

SEC/ld
Enclosure

IN THE COURT OF APPEALS
STATE OF GEORGIA

CAREY LECHELL ROSS
Appellant

v.

A13A1506

STATE OF GEORGIA
Appellee

BRIEF OF APPELLANT

RECEIVED IN OFFICE

2010 DEC 23 PM 03:33

CLERK COURT ADMINISTRATOR
COURT OF APPEALS OF GA

G. B. Moore, III
Attorney for Appellant
BAR # 519198
P.O. Box 747
Gray, Georgia 30132
Phone # 986-6189

CAREY LECHELL ROSS --- 440745
Appellant

Hays State Prison
P.O. Box 668

Trion, Georgia 30753

In the above case Number is
this on your records, I want to
know about my case, will you
give me in answer.

Respectfully submitted, this 19 day
of December, 2013

Carey Lecell Ross
Carey Lecell Ross #440745
Hays State Prison
P.O. Box 668
Trion, Georgia 30753

Lola Diamond - Fwd: A14A0510.

From: Steve Castlen
To: Lola Diamond
Date: 11/24/2014 9:36 AM
Subject: Fwd: A14A0510.
CC: Patty Bender
Attachments: A14A0510.

Lola,

Please print out this e-mail and file it under the sender's name so that we can locate it later, if needed. Thanks,

Steve

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

Lola Diamond - A14A0510.

From: Crystal James
To: Patty Bender; Steve Castlen
Date: 11/24/2014 9:27 AM
Subject: A14A0510.

Steve and Patty,

I am forwarding you an email that was sent to Judges McMillian, Phipps and Ellington. I don't know how this man got their email addresses but he did and sent them the following email regarding A14A0510.

Judge McMillian would ask this email be printed and placed in the file in the Clerk's Office. If one of you would do that, we would greatly appreciated it.

Thanks.

cj

From: "<tpr42345@aol.com>" <tpr42345@aol.com>
Date: November 24, 2014 at 1:26:47 AM EST
To: "Carla McMillian" <mcmillianc@gaappeals.us>
Cc: "J Ellington" <Ellingtj@appeals.courts.state.ga.us>, "Herbert Phipps" <Phippsh@gaappeals.us>
Subject: (no subject)

Dear Judge Carla Wong McMillian:

I am writing in regard to an Appellate Opinion that you wrote a few months ago and to make a request, which I hope you will see as being somewhat urgent.

To give credence, if necessary, to what follows, I will mention that I am a well-known scholar (elected Fellow of the American Statistical Association, Royal Statistical Society, and American Society for Quality) and the author of all of the books listed here:
http://www.wiley.com/WileyCDA/Section/id-WILEY2_SEARCH_RESULT.html?query=thomas%20p.%20ryan .

I am the only person in the world with five single-authored books in the prestigious Wiley Series in Probability and Statistics.

You wrote the Appellate Opinion, dated 7/3/14, in the case of Shuford v. Aames Plumbing and Heating, Inc. (dba The Pink Plumber), with concurrence from Presiding Judge Ellington and Chief Judge Phipps, both of whom I am copying on this e-mail.

I know that evidence brought forth in a civil trial can sometimes result in a case being sent to a criminal court for investigation and possible prosecution.

I strongly urge you to take such action regarding Aames, as there is considerable evidence, extending over years, that such action should be taken as soon as possible.

Specifically, the fraud charge that Sharon Shuford made against Aames could have also been made by scores of other people, as this was not an isolated occurrence of fraud. Rather, this is the way that the company somewhat routinely does business (!), as can be seen by reading the dozens of complaints against the company that are available on the Internet.

I was also a victim, as the company engaged with another company in a conspiracy with intent to commit insurance fraud, as well as charging me an exorbitant amount of money just to snake a drain! I am old and have a disability and I'm sure they thought I would be an easy mark.

I foiled their plans, however, when I became suspicious, but the other company (which seems to be almost a one-person company) did some damage to my basement and so I have formulated a strategy to collect evidence that I need and then go after him. (I believe, for example, that he has probably provided false information to the Georgia Secretary of State's Office, which of course is a crime.)

Aames (dba The Pink Plumber), denied having any relationship with this other company, making a pathetic attempt at lying by claiming that a neighbor's landscaper called the other company, when actually it was the Aames employee who stood right beside me and called them, without my knowledge of who he was calling (he just said "I'm calling someone") or my permission to do so!

Of course it goes without saying that crooks aren't very bright because if they had any sense they wouldn't be crooks in the first place!

An examination of phone records would, of course, prove that they were lying. They also lie when they say that they get two signatures before commencing work. They basically just seem to lie about everything!!

I have tried to go after the company in various ways. In particular, I filed a complaint with the Georgia Professional Licensing Board in March, but although my contact there told me months ago that there will be an investigation, I haven't heard anything from an investigator and I am beginning to wonder if any such investigation will actually occur.

My impression is that they have received complaints against Aames for years but they have never done anything about them, so naturally I am skeptical if any action will be taken now.

The company quite literally steals money from people, as they tried to do with the Shufords, while committing fraud.

One of the most egregious examples of company theft that is available to read about on the Internet occurred in regard to an elderly woman in Paulding County, who was recovering from brain surgery. She filed a complaint with the Atlanta BBB after being a victim of the same type of scam that the Shufords encountered. The difference is that the company actually got the money from the elderly woman.

Here is what she stated at the start of her complaint. "I'm elderly. I was given a price of 200 to clean out my septic tank. I was charged and threatened to pay 1,033".

She went on to state: "I want the money they stole from me returned. I was given a price of 200.00. My husband and I are elderly and I am dying from a terminal disease. I think it is sickening that people will take such horrible advantage of people they perceive as old and incapable". (Her complaint is dated 10/10/13 and can be read online at the Atlanta BBB website.)

Of course the Atlanta BBB, which does nothing more than record complaints and company responses, does not reveal the names of people who file complaints, but through a stroke of good luck, I was able to make contact with the woman's daughter-in-law, who was naturally quite upset about what had transpired.

She gave me the woman's name and phone number and I called her. The woman told me that Channel 2 was not interested in sending someone out to interview her. I had the same problem with Channel 2, which I guess should not be surprising since Aames advertises on Channel 2!

As I stated, many other similar septic tank-related complaints against Aames can be found on the Internet, as this is obviously a scam that the company uses quite often. (See, e.g., <http://newwayreviews.blogspot.com/2011/12/beware-of-pink-plumber.html> .)

The company's fraud and deception take many forms.

For example, on the company's Facebook page there is a "5-star rating", with no comments, from a woman named Bonnie Holbrook Faltersack. Clicking on her name produces a photo of her and Tom Faltersack, the company's General Manager! Similarly, there is also a 5-star rating, with no comments, from Scott Archibald. That is the name of the company's Service Manager, so it is presumably the same person.

At the other extreme, there is a 1-star Facebook review from George Buckley that begins with the words "Lying liars..." which is exactly what the company personnel are!! (George Buckley and his wife are a well-to-do couple who reside in Decatur, with his wife being a graduate of Duke. I have had some interaction with her by e-mail.)

Several months ago there was a Facebook comment from someone who indicated that he wanted to bash the Aames employees' heads in with a baseball bat! That review was presumably removed by Facebook, for obvious reasons.

The company has been ripping off customers for more than a few years, as evidenced by complaints going back several years on kudzu.com. Yelp.com, which is nothing more than a protection racket as thousands of companies have filed complaints against it with the FTC, alleging extortion, has 4 "recommended" reviews of Aames and 84 that are "not recommended" and partially hidden. Of course the reviewer trashes the company in almost all of the "not recommended" reviews.

The fraud that the company committed against the Shufords is just the tip of the iceberg. There is no doubt in my mind that a very thorough and complete investigation of the company, going back at least several years, will result in the discovery of enough criminal activity to warrant the company's leaders being indicted, convicted, and sent to prison.

Since dishonesty seems to run throughout the company, I believe that this should be followed by a court-ordered dissolution of the company so that this monster of a company cannot later rise up and resume stealing money from people.

The Managing Director of the company, Simon Kelly, has had a lot of practice trying to cover up the unethical and criminal actions of the company. Since I have had the misfortune to interact with him, I can guess what he would say. Specifically, he would probably point to the company's A-rating with the Atlanta BBB. Such ratings are meaningless, however, because Brian Ross of ABC News showed four years ago that the national organization sells ratings and historically has not given companies a good rating unless they joined the BBB (see his exposé at <https://www.youtube.com/watch?v=kollecdtjcM> .)

Mr. Kelly would probably also point to the company's purported support of breast cancer research. Some people who have made complaints about the company online have conjectured that the company did this in an effort to trick people into believing that they are a highly reputable company and probably also to give the company a competitive advantage. I concur.

Because of this, my guess is that the company's leaders probably believe that they and the company are invincible!

It is way past time that appropriate action was taken against the company and the people who run it. How would the three of you feel if you had a relative who was dying from an incurable disease (like the woman in Paulding County) and a company came out and stole \$800 from her, just as they tried to steal thousands of dollars from the Shufords, and did in fact create major problems

for me?

If an individual had stolen \$800 from that woman, I would expect the thief to receive a jail sentence. Companies should not be treated any differently and have such thievery simply written off as "bad business practice".

To put it bluntly, I am not going to rest until Gillon (the CEO), Kelly, and others are in prison.

Sincerely,

Tom Ryan, PhD
4022 Winding Valley Dr.
Smyrna, GA 30082
678-403-2343

Crystal W. James
Assistant to Judge Carla Wong McMillian
Court of Appeals of Georgia
47 Trinity Avenue, Suite 501
Atlanta, Georgia 30334
(404) 656-3455
jamesc@qaappeals.us

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

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

December 31, 2013

Mr. Ray Nelson, Sr.
GDC294360
Coffee Correctional Facility
Post Office Box 650
Nicholls, Georgia 31554

Dear Mr. Nelson:

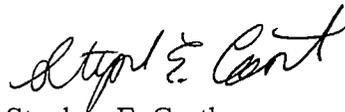
There is no current case pending in the Court of Appeals under your name. Until a case is docketed in the Court of Appeals in your name, you should direct your inquiries to your attorney of record or the clerk of the trial court from which you are appealing.

The last case filed in this Court under your name was A05A1778. Ray Nelson v. The State. (Lower Court Case Number: 02SC05587) Your appeal was disposed by opinion on February 28, 2006. The Court of Appeals vacated in part and affirmed in part the decision of the trial court. The remittitur issued on March 16, 2006, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

Regarding the "Notice of Appeal for Denial of 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 from the order of which you are appealing. The Certificate of Service is not to the clerk of the Court of Appeals, but directly to the district attorney who is the prosecuting officer and you must actually serve that party.

I am returning your documents to you. If you wish to re-submit them, please do so in compliance with the Rules of this Court and the statutes of this state.

Sincerely,



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

SEC/ld
Enclosures

GEORGIA COURT OF APPEALS

RECEIVED IN OFFICE

2013 DEC 20 PM 3:14

CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

RAY NELSON, SR.

v.

Case NO.

2002-SC-05587

THE STATE OF

GEORGIA

NOTICE OF APPEAL FOR DENIED
OF EXTRAORDINARY MOTION FOR NEW TRIAL

Notice is hereby given that Ray Nelson Sr. defendant above named, hereby appeals to the (Court of Appeals) from the judgement of conviction and sentence entered here in (date) May 19, 2003.

The offense(s) for which defendant was convicted is (are), and the sentence(s) imposed is (are) as follows:

Extraordinary motion for new trial was filed and Denied on November 30, 2012.

Let nothing be omit from the record on appeal.

Transcript of evidence and proceedings will be filed for the record on appeal.

This Court, (Court of Appeals or Supreme Court) has jurisdiction of this case on appeal for the reason in O.C.G.A. 5-6-35, 36. in Pitts v. state 328 S.E. 2d. 732 (1985).

And This day of November 7, 2013.

Parties Serve

GEORGIA COURT OF
APPEAL:
334 state Judicial Building
Atlanta, Ga 30334

ATTORNEY GENERAL OF
GEORGIA.
40 Capital Sq.
Atlanta, Ga 30334-1300

Ray Nelson Jr.
pro-se
Ray Nelson SR. #294360
CCA-CCF
P.O. Box 650
Nicholls, Ga 31554

GEORGIA COURT OF APPEALS

RAY NELSON, SR.

v.

Case NO.

2002-SC-05587

THE STATE OF
GEORGIA

NOTICE OF APPEAL FOR DENIED
OF EXTRAORDINARY MOTION FOR NEW TRIAL

Notice is hereby given that Ray Nelson SR. defendant above named, hereby appeals to the (Court of Appeals) from the judgement of conviction and sentence etered here in (date) May 19, 2003.

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Extraordinary motion for new trial was filed and Denied on November 30, 2012.

Let nothing be omit from the record on appeal.

Transcript of evidence and proceedings will be filed for the record on appeal.

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And This day of November 7, 2013.

Parties Serve

GEORGIA COURT OF
APPEAL.

334 state Judicial Building
Atlanta, Ga 30334

ATTORNEY GENERAL OF
GEORGIA.

40 Capital Sq.
Atlanta, Ga 30334-1300

Ray Nelson Sr.
pro-se
Ray Nelson SR. #294360
CCA-CCF
P.O. Box 650
Nicholls, Ga 31554

FORM 2 - PAUPER'S AFFIDAVIT

COURT OF APPEALS OF GEORGIA

Alvin James

APPELLANT

vs.

CASE NUMBER

Larry Johnson and
Sunday O'Donnell
APPELLEE

PAUPER'S AFFIDAVIT

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

This the 30th day of December, 2014.

Alvin James
(Your name printed or typed.)
[Signature] (Sign your name.)

915 Plymouth Road N.E Atlanta, GA 30306

(404) 915-2490

(Your complete address and telephone number.)

RECEIVED IN OFFICE
2014 DEC 30 PM 4: 12
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Sworn to and subscribed before me

this the 30 day of December, 2014.

[Signature] Notary Public
SEAL



FILED IN OFFICE

DEC 3 8 2014

CLERK/COURT OF
APPEALS OF GEORGIA



IN THE GEORGIA COURT OF APPEALS

LARRY JOHNSON AND SUNDAY O'DONNELL,

Plaintiffs/Appellees

v.

ALVIN JAMES AND ALL OTHERS

Defendant/Appellant

ON APPEAL FROM THE MAGISTRATE COURT

OF FULTON COUNTY

STATE OF GEORGIA

Civil Action No.: 14ED017934

APPLICATION FOR DISCRETIONARY APPEAL

GRADY A. ROBERTS

Georgia Bar. No. 609540

ROBERTS LAW

94 Howell St NE

Atlanta, GA 30312

404-794-7000 (Phone)

RECEIVED IN OFFICE
2014 DEC 30 PM 4:11
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

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

December 31, 2014

To: Grady A. Roberts, Esq., Roberts Law, 94 Howell Street, N.E., Atlanta, Georgia 30312

Docket Number: **Style:** **Alvin James v. Larry Johnson, 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 of Appeals of Georgia

December 31, 2014

TO: Mr. Sim James Pope, Jr., GDC369764, CCA/Coffee Correctional Facility, Post Office
Box 650, Nicholls, Georgia 31554

RE: **A15A0322. Sims James Pope, Jr. v. The State**

CHECK RETURN

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

CASE STATUS - DISPOSED

- The referenced appeal was _____ on _____ . The remittitur issued on _____ , divesting this Court of any further jurisdiction of your case. The case is therefore, final.

CASE STATUS - PENDING

- The above referenced appeal is in your name before this Court. The appeal was docketed in the January 2015 Term and a decision must be rendered by the Court by the end of the April 2015 Term which ends on or about July 31, 2015.**

The Appellant's Brief was received and filed in the above appeal on October 30, 2014.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

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

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

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

Mr. Stephen E. Castlen
Clerk of Court of Adminstor
Court of Appeals of Georgia
47 Trinity Ave. S.W. Suite 501
Atlanta, Ga. - 30334

December 17, 2014

Re. A15A0322

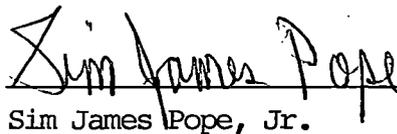
Dear Mr. Castlen:

This note is on inquiry as to the Status of Case No. A15A0322. Your letter dated October 23, 2014 indicated that you did not have a Brief on File from Me. In my most recent letter I explained that I had Mailed it Several Month's ago, however, Case No. 99-CR-00055 was attached to it. Since that letter, I have not received a REsponse and therefore, submit this letter to determine the Status.

Please arrest My fears by letting me know if All Matters relative to the Brief is cleared.

Thank You.

Respectfully Submitted,



Sim James Pope, Jr.

RECEIVED IN OFFICE
2014 DEC 30 PM 3:00
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE SUPERIOR COURT OF JEFFERSON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

V

SIM JAMES POPE, JR.

1
1
1
1

CASE NO. ^{A15A0322}~~99 CR 00055~~
MOTION TO SET ASIDE RULING
AND ORDER OF DEFENDANT'S
PETITION FOR RELEASE
FROM THE SEX OFFENDER REGISTRY

FILED IN OFFICE

OCT 30 2014

BRIEF OF NOTICE OF DISCRETIONARY APPEAL

COURT CLERK
CLERK COURT OF APPEALS OF GA

Comes now, Sim James Pope, Jr. here-in-after referred Defendant in the above-styled Case, and File this Brief in support of Notice of Discretionary Appeal. The Order and Ruling were rendered on the 12th day of May, 2014. Defendant take exceptions to the Ruling for the following Reasons:

RECEIVED IN OFFICE
2014 NOV -4 AM 11:34
COURT OF APPEALS OF GA

STATEMENT OF THE CASE

Defendant entered into a Negotiated Plea to the Single Charge of Child Molestation, Noverber 8, 1999, and Judge Walter McMillan, Jr. imposed a Sentence of Ten(10) Years. The Sentence was allowed to be served on Probation, subject to Sex Offender Registration.

Defendant submit Motion's on April 30th 2009 for the Early Termination, which was Denied September 1, 2010. Again on December 21, 2012, Defendant was Denied and this Current Motion which was submitted April 1, 2014, to set Aside the previous Ruling due to Subject Matter Jurisdiction, which was construed as a Motion to Set Aside Judgement.

ENUMBERATION OF ERRORS

1. Judge Reeves Order stipulated that a Motion to Set Aside Judgement is inappropriate in a Criminal Case. Lacey v State, 253 Ga. 711 (1985). Defendant's Motion was not Titled to Set Aside Judgement.
2. Defendants Judgement and Ten(10) Year Sentence in 1999 was subject to O.C.G.A.42-8-34, O.C.G.A. 42-2-1, O.C.G.A.17-10-6.2(d)

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 31, 2014

To: Mr. Jermaine Moody, GDC617817, Baldwin State Prison, Post Office Box 218,
Hardwick, Georgia 31034

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

Court of Appeals Case Number and Style: A15A0656. Jermaine Moody v. The State

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

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

Dec. 20, 2014

TO: COURT CLERK

RE: Appeal No. ALS-A 0656

Dear clerk

Please forward a copy of the enclosed appeal
to all interested parties including Clayton County
Superior Court clerk as Appellant is indigentSM
to ASSURE service.

RECEIVED IN OFFICE
2014 DEC 30 PM 3:00
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

JM: AOW

CC: FILE

Respectfully Submitted

By: 

Baldwin STATE PRISON

PO BOX 218

HARDWICK, GA 30334

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: A15A0656

DATE OF DOCKETING: November 24, 2014

STYLE: JERMAINE MOODY v. THE STATE

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 \$80.00 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 Mar 04 2015 before the Second Division: P. J., Andrews, J., Miller, J., Branch. 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.

COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA
APPEAL CASE No. A15A0656

GERMAINE MOODY, Sr.
vs.
Appellant

APPELLANT'S BRIEF IN SUPPORT

OF APPELLANT'S MOTION TO SET ASIDE

AND / OR CORRECT ILLEGAL SENTENCE

James Abou, the Appellant Germaine Moody in his Pro-Se capacity respectfully moves this Court for an Order granting Appellant's Motion to set aside / correct his illegal sentence and in further support thereof Appellant's shows the following:

1) Appellant submitted a Motion in the Clayton County Superior Court for review of his sentence,

II. ENIMBERATION OF ERRORS

Appellant hereby submits this appeal pursuant to section 5-6-40 of Georgia Ann. and hereby re-allege all allegations stated within his initial Motion as though the same were fully set forth HEREIN.

Appellant further states that the Court affords appellant the right to amend said Motion as this appeal is being submitted that Appellant's motion would not be dismissed as untimely. As verified by Said Personal, Appellant received this Courts response Dec. 02, 2014,

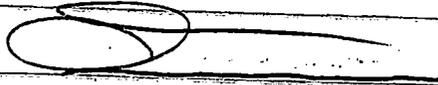
CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing Party (ies) to this action with a true and correct copy of the within and foregoing (Appeal) Motion To set aside and/or correct illegal sentence Pursuant to O.C.G.A. § 17-9-4 by placing a copy of same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and addressing it to:

This 20th day of December, 2014

JM:ADW

cc:File


Pro-se

Baldwin State Prison
PO Box 218
Hardwick, GA 31034

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

State of Georgia

v.

Jermaine Moody,
Defendant

Criminal Action No.

2003-CR-017-49-7

MOTION TO SET ASIDE AND/OR CORRECT ILLEGAL SENTENCE PURSUANT TO
O.C.G.A. 17-9-4

Comes now the defendant, named herein and above and moves this honorable court pursuant to O.C.G.A. 17-9-4 to set aside Illegal Sentence and Conviction. For the following reasons defendant brings this motion at bar:

1. CASE HISTORY

Defendant was found guilty, by jury, of Kidnapping with bodily injury, Aggravated Assault, Battery and Tampering with Evidence in the Clayton County Superior Court on May 13, 2005 and he thereafter timely appealed to the Court Of Appeals Of Georgia: The sentence he had received from the Clayton County Superior Court, which was Life Without Parole. The Court Of Appeals found: (1) sufficient supporting evidence for kidnapping with bodily injury; (2) sufficient evidence to support the conviction for Aggravated Assault; (3) sufficient evidence supported the fact that the defendant intended to murder the victim; (4) the Court did not abuse it's discretion by admitting photographs of the victim taken two days after the incident; (5) the trial court did not abuse it's discretion by excluding testimony from the defendants expert witness; (6) that any error in the trial courts admission into evidence of the victims heresay testimony was harmless; (7) the court did not abuse it's discretion in cross examining the victim as to the details of her work history; (8) the trial court could exclude from evidence the documents allegedly showing that the victims employer referred her to a drug treatment program; (9) the trial court could exclude from evidence, a case plan from the Department Of Family and Children Services (DFACS) requiring the victim to seek drug treatment.

2. ARGUMENT AND CITATION OF AUTHORITY

The Court of Appeals has held that "where a valid sentence is not imposed at the term of court in which a defendant was convicted, a valid sentence may be imposed at a later term." Sherman v. State, 142 Ga. App. 691, 692; 237 S.E.2d 5 (1977); Mauldin v. State, 139 Ga. App. 13; 227 S.E.2d 862 (1976)

If a sentence is imposed which the law does not allow, the trial court has the authority to vacate or modify after the term in which the sentence was imposed if it falls within the ambit of O.C.G.A. 17-9-4, holding that; the judgment of a court having no jurisdiction of a person or subject matter, or void for any other reason is a mere nullity and may be held so in any other court when it becomes material to the interest of the parties to consider it. Eddleman v. State, 247 Ga. App. 753, 545 S.E.2d 122 (2001)

In this case at bar the defendant was not given prior notice that the state intended to seek the death penalty in a capital case for kidnapping with bodily injury. Although the state did give notice of intent

to seek life without parole.

The unavoidable result of the legislative enactment was to bar the state from seeking life without parole unless the state filed a notice of intent to seek the death penalty. State v. Ingram et al, 266 Ga. 324; 467 S.E.2d 523 (1996); Velazquez v. State, 283 Ga. App. 863; 643 S.E.2d 291 (2007)

Wherefore the trial court did not have authority to impose a sentence of life without parole because the state did not seek the death penalty. Therefor this court must find for the defendant, that because the state did not supply any notice under the Uniform Rules of Superior Courts that it intended to seek the death penalty nor did the Superior Court make any finding of aggravating circumstances under O.C.G.A. 17-10-30; under O.C.G.A. 17-10-32.1, the trial court was not authorized to sentence the defendant to life without parole as a punishment for the crime of kidnapping with bodily injury.

In this defendants case the state never gave notice that it was seeking the death penalty. SEE State v. Velazquez, 283 Ga. 206; 657 S.E.2d 838 (2008) & State v. Ingram, 266 Ga. 324, 326, n.7; 467 S.E.2d 523 (holding that a sentence of life without parole is authorized only in cases where state first sought the death penalty, and gave a required notice of such.)

In short, life without parole can not be the proper sentence unless the state gives notice of it's intent to seek the death penalty.

Moreover, the sentence of the court was a result of mechanical sentencing procedures. Cook v. State, 256 Ga. App. 353; 568 S.E.2d 136 (2002) & Jones v. State, 208 Ga. App. 472; 431 S.E.2d 136 (1993). The trial judge abused his discretion when he failed to consider other sentencing options available to the defendant at sentencing. (See sentence hearing transcript)

Furthermore, the defendant believes that the trial court erred in sentencing him to life without parole as a recidivist. Because the trial judge mistakenly believed that a sentence of life without parole was mandatory. That error was not harmless. Blevins v. State, 270 Ga. App. 388; 606 S.E.2d 624 (2004)

CONCLUSION

Defendant prays that this honorable court grant the relief requested herein and any other relief the court may deem just.



Jermaine Moody, Pro Se

COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

APPEAL CASE NO. A15A 0656

VS

GERMAINE MOODY, Sr.

Appellant

APPELLANT'S BRIEF IN SUPPORT

OF APPELLANT'S MOTION TO SET ASIDE

AND FOR CORRECT ILLEGAL SENTENCE

James Now, the Appellant Germaine Moody in his Pro-Se capacity respectfully moves this Court for an Order granting Appellant's Motion to set aside / correct his illegal sentence and in further support thereof Appellant's shows the following:

1) Appellant submitted a Motion in the Clayton County Superior Court for review of his sentence,

II. ENTIRETY OF ERRORS

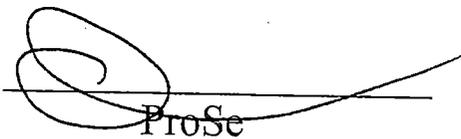
Appellant hereby submits this appeal pursuant to section 5-6-40 of Georgia Ann. and hereby re-allege all allegations stated within his initial Motions as though the same were fully set forth herein.

Appellant further states that the Court affords appellant the right to amend said motion as this appeal is being submitted that Appellant's motion would not be dismissed as untimely. As verified by Jail Personnel, Appellant received this Court's response Dec. 02, 2014.

CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing Party(ies) to this action with a true and correct copy of the within and foregoing (Appeal) Motion To Set aside and/or correct illegal sentence Pursuant To O.C.G.A. §17-94 by placing a copy of same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and addressing it to:

This 20th day of December, 2014.


ProSe

JM:ACW
cc:File

Baldwin State Prison, PO Box 218
Hawick, Georgia 31034

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

State of Georgia

v.

Jermaine Moody,
Defendant

Criminal Action No.

2003-CR-017-49-7

MOTION TO SET ASIDE AND/OR CORRECT ILLEGAL SENTENCE PURSUANT TO
O.C.G.A. 17-9-4

Comes now the defendant, named herein and above and moves this honorable court pursuant to O.C.G.A. 17-9-4 to set aside Illegal Sentence and Conviction. For the following reasons defendant brings this motion at bar:

1. CASE HISTORY

Defendant was found guilty, by jury, of Kidnapping with bodily injury, Aggravated Assault, Battery and Tampering with Evidence in the Clayton County Superior Court on May 13, 2005 and he thereafter timely appealed to the Court Of Appeals Of Georgia: The sentence he had received from the Clayton County Superior Court, which was Life Without Parole. The Court Of Appeals found: (1) sufficient supporting evidence for kidnapping with bodily injury; (2) sufficient evidence to support the conviction for Aggravated Assault; (3) sufficient evidence supported the fact that the defendant intended to murder the victim; (4) the Court did not abuse it's discretion by admitting photographs of the victim taken two days after the incident; (5) the trial court did not abuse it's discretion by excluding testimony from the defendants expert witness; (6) that any error in the trial courts admission into evidence of the victims heresay testimony was harmless; (7) the court did not abuse it's discretion in cross examining the victim as to the details of her work history; (8) the trial court could exclude from evidence the documents allegedly showing that the victims employer referred her to a drug treatment program; (9) the trial court could exclude from evidence, a case plan from the Department Of Family and Children Services (DFACS) requiring the victim to seek drug treatment.

2. ARGUMENT AND CITATION OF AUTHORITY

The Court of Appeals has held that "where a valid sentence is not imposed at the term of court in which a defendant was convicted, a valid sentence may be imposed at a later term." Sherman v. State, 142 Ga. App. 691, 692;237 S.E.2d 5 (1977); Mauldin v. State, 139 Ga. App. 13; 227 S.E.2d 862 (1976)

If a sentence is imposed which the law does not allow, the trial court has the authority to vacate or modify after the term in which the sentence was imposed if it falls within the ambit of O.C.G.A. 17-9-4, holding that; the judgment of a court having no jurisdiction of a person or subject matter, or void for any other reason is a mere nullity and may be held so in any other court when it becomes material to the interest of the parties to consider it. Eddleman v. State, 247 Ga. App. 753, 545 S.E.2d 122 (2001)

In this case at bar the defendant was not given prior notice that the state intended to seek the death penalty in a capital case for kidnapping with bodily injury. Although the state did give notice of intent

to seek life without parole.

The unavoidable result of the legislative enactment was to bar the state from seeking life without parole unless the state filed a notice of intent to seek the death penalty. State v. Ingram et al, 266 Ga. 324; 467 S.E.2d 523 (1996); Velazquez v. State, 283 Ga. App. 863; 643 S.E.2d 291 (2007)

Wherefore the trial court did not have authority to impose a sentence of life without parole because the state did not seek the death penalty. Therefor this court must find for the defendant, that because the state did not supply any notice under the Uniform Rules of Superior Courts that it intended to seek the death penalty nor did the Superior Court make any finding of aggravating circumstances under O.C.G.A. 17-10-30; under O.C.G.A. 17-10-32.1, the trial court was not authorized to sentence the defendant to life without parole as a punishment for the crime of kidnapping with bodily injury.

In this defendants case the state never gave notice that it was seeking the death penalty. SEE State v. Velazquez, 283 Ga. 206; 657 S.E.2d 838 (2008) & State v. Ingram, 266 Ga. 324, 326, n.7; 467 S.E.2d 523 (holding that a sentence of life without parole is authorized only in cases where state first sought the death penalty, and gave a required notice of such.)

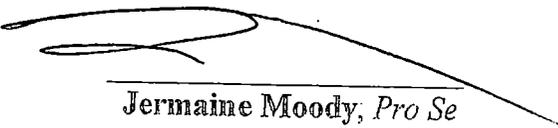
In short, life without parole can not be the proper sentence unless the state gives notice of it's intent to seek the death penalty.

Moreover, the sentence of the court was a result of mechanical sentencing procedures. Cook v. State, 256 Ga. App. 353; 568 S.E.2d 136 (2002) & Jones v. State, 208 Ga. App. 472; 431 S.E.2d 136 (1993). The trial judge abused his discretion when he failed to consider other sentencing options available to the defendant at sentencing. (See sentence hearing transcript)

Furthermore, the defendant believes that the trial court erred in sentencing him to life without parole as a recidivist. Because the trial judge mistakenly believed that a sentence of life without parole was mandatory. That error was not harmless. Blevins v. State, 270 Ga. App. 388; 606 S.E.2d 624 (2004)

CONCLUSION

Defendant prays that this honorable court grant the relief requested herein and any other relief the court may deem just.



Jermaine Moody, Pro Se

COURT OF APPEALS OF GEORGIA

STATE OF GEORGIA

APPEAL CASE No. A15A 0656

VS.

JERMAINE MOODY, Sr.
Appellant

APPELLANT'S BRIEF IN SUPPORT
OF APPELLANT'S MOTION TO SET ASIDE
AND/OR CORRECT ILLEGAL SENTENCE

Comes Now, the Appellant Jermaine Moody in his Pro-Se capacity respectfully moves this Court for an Order granting Appellant's Motion to set aside / Correct his illegal sentence and in further support thereof, Appellant's shows the following:

- 1) Appellant submitted a Motion in the Clayton County Superior Court for review of his sentence,

III. ENTIRETY OF ERRORS

Appellant hereby submits this appeal pursuant to section 5-6-40 of Georgia Ann. and hereby re-allege all allegations stated within his initial Motion as though the same were fully set forth herein.

Appellant further states that the Court affords appellant the right to amend said motion as this appeal is being submitted that Appellant's motion would not be dismissed as untimely. As verified by Jail Personnel, Appellant received this Court's response Dec. 02, 2014.

CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing Party(ies) to this action with a true and correct copy of the within and foregoing (Appeal) Motion To set aside and/or correct illegal sentence Pursuant To O.C.G.A. § 17-9-4 by placing a copy of same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and addressing it to:

This 20th day of December, 2014.



ProSe

Baldwin State Prison P.O. Box 218
Hardwick, Georgia 31034

Jm: AOW

cc:file

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

State of Georgia

v.

Jermaine Moody,
Defendant

Criminal Action No.

2003-CR-017-49-7

MOTION TO SET ASIDE AND/OR CORRECT ILLEGAL SENTENCE PURSUANT TO
O.C.G.A. 17-9-4

Comes now the defendant, named herein and above and moves this honorable court pursuant to O.C.G.A. 17-9-4 to set aside Illegal Sentence and Conviction. For the following reasons defendant brings this motion at bar:

1. CASE HISTORY

Defendant was found guilty, by jury, of Kidnapping with bodily injury, Aggravated Assault, Battery and Tampering with Evidence in the Clayton County Superior Court on May 13, 2005 and he thereafter timely appealed to the Court Of Appeals Of Georgia: The sentence he had received from the Clayton County Superior Court, which was Life Without Parole. The Court Of Appeals found: (1) sufficient supporting evidence for kidnapping with bodily injury; (2) sufficient evidence to support the conviction for Aggravated Assault; (3) sufficient evidence supported the fact that the defendant intended to murder the victim; (4) the Court did not abuse it's discretion by admitting photographs of the victim taken two days after the incident; (5) the trial court did not abuse it's discretion by excluding testimony from the defendants expert witness; (6) that any error in the trial courts admission into evidence of the victims heresay testimony was harmless; (7) the court did not abuse it's discretion in cross examining the victim as to the details of her work history; (8) the trial court could exclude from evidence the documents allegedly showing that the victims employer referred her to a drug treatment program; (9) the trial court could exclude from evidence, a case plan from the Department Of Family and Children Services (DFACS) requiring the victim to seek drug treatment.

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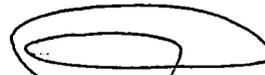
Furthermore, the defendant believes that the trial court erred in sentencing him to life without parole as a recidivist. Because the trial judge mistakenly believed that a sentence of life without parole was mandatory. That error was not harmless. Blevins v. State, 270 Ga. App. 388; 606 S.E.2d 624 (2004)

CONCLUSION

Defendant prays that this honorable court grant the relief requested herein and any other relief the court may deem just.

O.C.G.A

17-10-31



Jermaine Moody, Pro Se