

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

May 5, 2015

To: Mr. Rodney Allen, GDC802331, Coffee Correctional Facility, 1153 North Liberty Street, 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: \_\_\_\_\_
- 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 THE STATE OF GEORGIA

CASE NO: A15A1446

RODNEY ALLEN V. STATE OF GEORGIA

A APPEAL FROM THE SUPERIOR COURT OF DOUGHERTY COUNTY

BRIEF OF APPELLANT  
IN SUPPORT  
OF RICHARD PARKER ATTORNEY  
FOR APPELLANT

RECEIVED IN  
COURT OF APPEALS  
OF THE STATE OF GEORGIA  
MAY 11 PM 3:17  
COURT CLERK

RODNEY ALLEN WAS CHARGED BY INDICTMENT IN CASE NO# 11-R-889 WITH THE OFFENSES OF ARMED ROBBERY, AGGRAVATED ASSAULT, POSSESSION OF A FIREARM DURING THE COMMISSION OF A CRIME, AND POSSESSION OF FIRE ARM BY A CONVICTED FELON; IN CASE# 12-R-181, HE WAS CHARGED BY INDICTMENT WITH ROBBERY BY SUDDEN SNATCHING AND BURGLARY, ON MAY 9, 2013 AT A PLEA HEARING, HE ENTERED PLEAS TO ALL CHARGES AND WAS SENTENCED TO 25 YEARS SERVE TEN FOLLOWED BY FIFTEEN YEARS ON PROBATION. MR ALLEN LATER FILE A MOTION TO WITHDRAW HIS PLEAS DUE TO HE WAS UNDER A PSYCHOLOGIST CARE AND UNDER A LARGE DOSE OF MENTAL HEALTH MEDICATION, AND THAT HE WAS NOT FULLY CAPABLE OF RENDERING HIS ATTORNEY ASSISTANCE IN THE PLEA HEARING AND THAT HIS PLEA WAS INVOLUNTARILY ENTERED DUE TO HIM BEING INCOMPETENT AT THE PLEA HEARING.

ON SEPTEMBER 4, 2014, MR ALLEN HAD A HEARING ON HIS MOTIONS TO WITHDRAW HIS GUILTY PLEA IN BOTH CASES, AND THE TRIAL COURT ENTERED A WRITTEN ORDER DENYING THESE MOTIONS, BUT THE JUDGE GRANTED MR ALLEN AN OUT-OF-TIME APPEAL IN EACH CASE. DURING THE HEARINGS EVIDENCE BY RECORDS FROM SOUTHWESTERN STATE HOSPITAL AND THE DOUGHERTY COUNTY JAIL WAS ELICITED THAT HE WAS ON BOTH SEROQUEL 600 MG AND RISPERDAL 3 MG AND DEPAKOTE 500 MG AT THE TIME THE PLEAS WAS ENTERED. RECORD ALSO REVEAL THAT A PSYCHOLOGIST WHILE EVALUATING MR ALLEN ON (JAN 2012) AND FEB 2012 DID FOUND HIM INCOMPETENT TO STAND TRIAL, AND LATER FOUND HIM TO BE SUFFERING FROM A MENTAL SICKNESS SCHIZOPHRENIA, HALLUCINATION, DELUSIONAL THINKING, DRUG ABUSE AND ANTI-SOCIAL PERSONALITY DISORDER WHICH OCCURS WITH HIS SCHIZOPHRENIA. ALLEN HAS FOUND THAT A MANIFEST-INJUSTICE HAS OCCURRED BY TRIAL COURT FAIL TO INVESTIGATE HIS COMPETENCE PRIOR TO ENTERING THE PLEA, AND THAT TRIAL COURT ERRED IN DENYING MR. ALLEN'S MOTIONS TO WITHDRAW HIS GUILTY PLEAS.

A DEFENDANT MAY WITHDRAW HIS PLEA OF GUILTY AS A MATTER OF RIGHT BEFORE SENTENCE IS PRONOUNCED - OCGA 17-7-93 SANDERS V. STATE, 179 GA. APP. 168 (1986), "AFTER SENTENCE IS PRONOUNCED, THE JUDGE SHOULD ALLOW THE DEFENDANT TO WITHDRAW A PLEA OF GUILTY OR NOLU CONTENDERE WHENEVER THE DEFENDANT, UPON A TIMELY MOTION FOR WITHDRAWAL, PROVES THAT WITHDRAWAL IS NECESSARY TO CORRECT A MANIFEST INJUSTICE U.S.C.A. 33.12.

IN THE INSTANT CASE, A MANIFEST INJUSTICE HAS OCCURRED, AND IT IS OBVIOUS THAT THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING MR. ALLEN'S MOTION TO WITHDRAW HIS GUILTY PLEA. MR. ALLEN A VETERAN OF THE UNITED STATES MARINE CORPS, A THIRTY-SECOND DEGREE PRINCE MASON, A FATHER OF FOUR AND A TAXES PAYING CITIZEN NOW PLEADS WITH THIS COURT TO REVERSE HIS CONVICTION AND REMAND HIS CASE BACK TO THE TRIAL COURT FOR FURTHER PROCEEDINGS. HE'S NOW SERVE 45 MONTHS IN PRISON.

## STATEMENT OF FACTS

ON MAY 9, 2013 RODNEY ALLEN While under the care of a Psychologist And under a large dose of Mental health Medications did involuntarily Enter Pleas of Guilty To Charges He did NOT fully understand NOR was he capable of rendering assistance to his counsel while incompetent And under a Psychologist care. The Plea hearing Transcript of May 9, 2013 will show that Mr. Allen was at the time the Plea was Entered taking some of the most strongest Mental health Medication known as Seroquel (Quetiapine Fumarate) He was Prescribe 600 MG to Treat Hallucination, depression, delusional thinking, Schizophrenia. Mr. Allen was also under Risperdal 3mg And Depakote 500mg All use to Treat Schizophrenia, depression, and Bi-Polar. By Mr. Allen under so much psychotic Medicines and the care of a Psychologist at the time the Plea's was Entered, it was never proven by a up date EVAL NOR did the Trial court know the affects cause by the Medication, did it affect Mr. Allen Ability to understand the Plea hearing Proceedings, did he fully understand the Plea agreement and rendered assistance to counsel.

Due to Trial court NOT conducting a UP DATE EVAL to hear from a Psychologist that Allen was competent to enter the Plea's on May 9th 2013 and he, Mr. Allen being under the influence of such strong Medication there has been a manifest injustice found in this case and Mr. Allen a ex U.S. Marines who suffer from a mental sickness Schizophrenia, Hallucination, depression, delusional thinking ask this Court of Appeals to Reverse his convictions and Remand his case back to the Trial Court for further Proceedings.

Mr. Allen has NO HISTORY of Violence nor was any violence did in these cases, Mr. Allen has been sentence to 25 years serve 10 years in Prison under minimum-mandatory with 15 years yet to be serve on Probation. There's been no actually Evidence that Mr. Allen committed any of the charges NOR did Mr. Allen confess to these charges. He may have made incompetent statements due to his mental health during the interviews, there was never a eye witness in these cases nor did any victim identify Mr. Allen as the suspect in these crimes.

To allow Mr. Allen's Pleas of Guilty to stand would not only be an injustice, it would also be corruptic in the Judicial system to sentence a incompetent U.S. Veteran who at the time the Plea's was Entered was under the care of a Psychologist and a large dose of Mental health Medications. Seroquel 600mg and Risperdal 3mg. Depakote 500mg these Medications have serious side affects and they did affect Mr. Allen Ability to fully understand the Plea hearing Proceedings and to render assistance to his counsel.

Trial court should have allowed Mr. Allen to withdraw his Plea. The Trial Judge Abused his discretion, and a manifest injustice has occurred.

Mr. Allen now humbly ask the Georgia Court of Appeals to Reverse his conviction and Remand his cases back to court for further Proceedings. Mr. Allen has now serve 45 months in Dept of Correction with Good Behavior and no violent has been Reported.

CONCLUSION

BASED OF THE FACTS OF RECORD FROM Southwestern STATE Mental Hospital, The May 9, 2013 Plea hearing Transcripts, The Albany Police Reports The Appellant MR Rodney Allen Request that This COURT understand He was AT the Time Suffering from A Mental Sickness And was TAKING A large dose OF Mental health Medications AT the May 9th 2013 Plea hearing which did AFFECT His Ability TO understand the Plea hearing Proceedings, And TO Render Assistance TO His Counsel

There was NO UP date EVAL did TO see was MR Allen IN FACT competent Enough TO ENTER Plea's ON May 9th 2013. Yes the Psychologist did found MR Allen competent ON May 14, 2013. BUT WAS he still TO be competent A Year Later AFTER changing Medications And Psychologists. Can there be ANY doubt that MR Allen was incompetent during the Plea hearing?

MR Allen A United States Veteran with NO history of Violent behavior who has Served 45 Months ASK this COURT TO Reverse the Trial COURT's denial of his MOTIONS TO withdraw his guilty Pleas in the Above styled cases. And Give Him A chance TO Prove he's NOT GUILTY!

MR Allen STATES that he's A 32nd degree MASTER Mason in Good standing in the STATE OF Georgia And Around the World. He Also STATES that he has four children that he Loves And want TO Help them live A better life than he has. He ASK the COURT OF APPEALS TO HAVE Mercy ON the Widow's Son, 'O Lord MY God is there NO help for the Widow's Son?'  
SO MORE IT BE ~~X~~ 32<sup>o</sup>

Respectfully Submitted this 28th day of April, 2015

RODNEY ALLEN, APPELLANT  
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NICHOLLS, GA 31554

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Travelling EAST