

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

August 5, 2015

To: Mr. Dwayne Atkins, GDC141382 4-Q, Coffee Correctional Facility, Post Office Box 650, Nicholls,
Georgia 31554

Docket Number: Style: Dwayne Atkins 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

RECEIVED IN OFFICE
2015 AUG -14 AM 11:37
CLERK OF SUPERIOR COURT
COURT OF APPEALS OF GEORGIA

IN THE Court of Appeals OF GEORGIA

Dwayne Atkins
APPELLANT

V.
STATE OF GEORGIA

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Case No Q5CR687A

APPLICATIONS FOR DISCRETIONARY APPEAL

Comes Now, The above named Appellant pro se in the above styled action makes this, his Application for Discretionary appeal of the Trial Courts July 2, 2015 order denying Jurisdiction to hear Motions and Pleadings filed in this case. In so doing Shows the following!

OPINION BELOW

Appellant filed A Motion To Clarify Sentencing and Motion To serve sentencing Concurrently on or about the 7 day of May, 2015 in the Superior Court of Dawson County, the Honorable Andrew Fuller, Judge presiding.

ON The 2 day of July, 2015 the Court denied Appellant's motions stating: Appeals Court has already ruled in direct appeal and the State has no Jurisdiction. Motions Denied.

Jurisdiction

Appellant's case involves offenses for which the Court of Appeals of Georgia has Jurisdiction from the denial of motions and pleadings filed within the Trial Court after the remittor has been returned to Trial Court upon affirmance of direct appeal.

Questions Presented for Review

1) Does the Trial Court have jurisdiction to hear A defendant's Motions and Pleadings filled within said Court after the Remitter has been returned to the trial court upon affirmance of direct appeal ?

History of the Case

Appellant was tried on Indictment NO. 05CR687A and was convicted by A Dawson County Jury on the 20 day of Sept 2006.

Appellants Motion For New trial was denied and the court of Appeals affirmed conviction the 15 day of July, 2008.

Appellant filed a Motion to Clarify Sentencing and a motion to serve Sentencing Concurrently the 11 day of May, 2015 which the Court denied Stating it lacked jurisdiction to hear and decide Motions since Appellant had already taken his case to the Appellate court on direct Appeal. Thus, Causing Appellant to pursue the instant action.

Statement of Case

Appellant filed a Motion to Clarify Sentence due to ambiguities / conflicting sentence references cited in final disposition filed by the State in accordance with law.

And A Motion to serve Sentencing Concurrently seeking leniency of what he believed to be harsh and unwarranted punishment imposed by the Court considering evidence presented at trial.

The trial court failed to reach the merits of the case instead denying authority stating it lacked jurisdiction to dispose of the aforesaid motions where Appellant had previously exercised his right to direct appeal following the denial of the motion for New Trial.

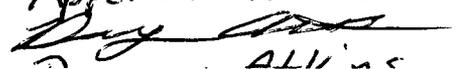
Conclusion

Appellant asserts claim that the trial Court has jurisdiction to hear and dispose of motions filed within its court, provided that the case file is presently within the Clerk of Courts custody, and not transmitted or in transit to or from an appellate Court.

Wherefore, Appellant prays this Honorable Court will Grant the Application and reverse the lower Courts denial, and Remand with directions to hear and summarily dispose of the aforementioned motions, and any other relief this court deems proper and just.

This 27 day of July 2015

Respectfully Submitted
Appellant Pro Se


ALLIANCE

July 27, 2015

Dear Appeal Court

Please Compare Bill of Indictment, Criminal Docket and Final Disposition. I have copy of all three on Bill of Indictment count Two Possession of Methamphetamine. Criminal Docket count Two says Obstruction of Officer - Felony. Final Disposition says same as Bill of Indictment on count Two.

Now look at Criminal Docket count one which was Nolle Prosequi case # OSCR687A Possession of Methamphetamine. See Nolle Prosequi Filed Jan 18, 2006 Recorded in CR Book 275 page 365 I was never reindicted which is null and void. Criminal Docket count one is Possession of Methamphetamine. There is no count one in Final Disposition. And Bill of Indictment says only Barbara Padgett count one for Trafficking in Methamphetamine.

Now can you finally see since the criminal Docket surfaced it shows where Barbara Padgett and Duwayne Atkins was both charged together case # OSCR687A and Atkins was never reindicted which makes his charges void also.

Thank you!

Duwayne Atkins

Duwayne Atkins