

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

December 8, 2015

**To:** Mr. Lester Robert Baker, GDC933200, Washington State Prison, Post Office Box 206,  
Davisboro, Georgia 31018

**Docket Number:**    A16A0589.    Lester Baker v. The State  
                          A16A0590.    Lester Baker v. The State

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

1.  Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal \*Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2.  A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3.  Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4.  **No Certificate of Service accompanied your Request to Argue.  
An improper Certificate of Service accompanied your Brief.**
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) I have enclosed a copy of the Rules of the Court of Appeals of Georgia for your review.
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 a Brief in each appeal.**

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

To: *Lester Baker*

Docket Number: *A16A0589 / A16A0590* Style: *Lester Baker v. The State*

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

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4.  No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6  
*on your request to argue. brief.*
5.  Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
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For Additional information, please go to the Court's website at: [www.gaappeals.us](http://www.gaappeals.us)

Appeals Briefing for  
Lester Robert Baker  
pro se litigant  
vs  
The State

A16A0589      14-~~CR~~752  
A16A0590      14-CR455

Sent before the 20  
day deadline

And oral argument requested

2015 DEC -8 AM 10:55  
COURT REPORTER  
COURT REPORTER

# Appellants Brief for (related cases) <sup>ON appeal</sup> ①

appeal case no: A16A0589 + A16A0590

~~Any attempt of those in question to misconstrue or characterize G.A.C. 9-4 as an attempt to destroy the rights of petitioners and violation of duty of police and is to their own unity protection. Qualified immunity does not shield from liability for evil damages for torts where their conduct violates clearly established statutory or constitutional rights. The Petitioner does hereby state the following grounds that makes the judgement void.~~

appeals Brief for Lester Robert Baker  
vs. The State  
14-455 and 14-752

1) Petitioners Grand Jury indictment(s) for 14-752 and 14-450 are both defective and invalid, with there being several compounding reasons and factual based evidences(s).

A) In December 2013 when Petitioner was arrested for the case(s) of 14-752 (Burglary 1<sup>st</sup>) and 14-450 (Burglary 2<sup>nd</sup>), Petitioner contends that both arresting investigators for the Cartersville (Ga) P.D. had before the interrogation on the arresting day "Prayed over" and "Compelled" (in a Christian ritual) Petitioner to feel like he was in a need to "confess" to GOD during the interrogations on the arresting day. Petitioner contends that the "Praying over" and "compelling" before the interrogations by both arresting investigators (David Boychek and Amanda Pettifer)

immediately violated the Client and Clergy privileges. Investigators cannot act as Clergyman and investigators at the same time and they cannot "compell" "religiously" any accused or arrested suspect to make them feel like they are "confessing to GOD" during a interrogation, before a interrogation or after a interrogation; \* O.C.G.A. 24-5-502 Communications to Clergyman Privileged \*

\* O.C.G.A. 24-5-506 Privilege against Self Incrimination \* → a) no person who is charged in any criminal proceeding with the commission of any criminal offense shall be compellable to give evidence for or against himself/herself. Both O.C.G.A. 24-5-502 & 24-5-506 protect an accused from being "compelled" to make a confession to GOD before or during or after any interrogation. It stands as a highly illegal practice for any Police or Police related official or Judicial member to "coherse" a confession from a accused while using GOD or any religious compellant to gain any confession or evidence. A Investigator cannot play "Clergyman and Policeman" at the same time while on duty to obtain a confession or evidence related to the crime, all forms of this highly violates proceder(s), constitutional rights and Client and Clergy privileges. This means that any and all confession(s) or evidences collected on the day of arrest are not legal to use or gain accusation or indictment, all aspect of both cases are then considered illegal/voidable.



I have a copy of this newspaper article (take note that between Sept 2013 and Dec 2013 in. Boychek prayed over me on 2 other occasions after interrogations) 3

\* Take special note that in the May 17, 2015 edition of the Daily Tribune newspaper from (Bartow County, Cartersville, Ga), both investigators that had arrested said petitioner on the charges (14-752 & 14-4505, (Boychek and Pettifer) had been forced to either resign or have their jobs terminated (by police chief Tommy Culpepper and District Attorney Rosemary Greene ← Bartow County); for circumstances directly related to potential Client/Clergy privileges and off-duty jail ministries which both arresting investigators had formed together and practiced.

B) Petitioner contends that indictment 14-752 was/is void and in-valid (defective) due to conflictual and purposely omitted (From Grand Jury indictments) reasons.

1) On the Grand Jury indictment day of 14-752, it was "conflictually" left out to inform the Grand Jury of "underlying" conflict(s) of interest(s) surrounding said charges. The accuser/victim in case no: 14-752 (Charles Ray Thacker) is the blood relative (uncle and name sake) to the Bartow County head asst. D.A. (Mickey Ray Thacker). This conflict of interest was not spoken of or presented to the Grand Jury for indictment proceedings involving case no 14-752.

This failure to present or file any notice of conflict (of interest(s)) to the presiding Judge or Grand Jury involving indictment for 14-752 thus makes the indictment voidable and defective. Legal procedure and equal protection both call for all/any conflict(s) of interest to be given notice of to the presiding courts, this both protects the overall interest(s) to both parties involved (accused and victim) and protects the integrity of the Courts, procedure, rights and the integrity of the Grand Jury and the People. This failure to give notice of conflict of interest to the Grand Jury on indictment 14-752 thus totally makes it defective in nature / void and reason to vacate.

C) Petitioner contends that indictment 14-4505 is voidable / in-valid due to conflict(s) of interest(s) that were failed to be presented by notice to the Grand Jury or presiding Judge during indictment proceedings.

1) Said accuser/victim in case no 14-~~4505~~<sup>455</sup> is a appointed or elected Judicial member of the City of Cartersville (City Attorney for City of Cartersville, GA David Archer). This High-standing political/judicial conflict was not presented to or gives notice of to the Courts or Grand Jury during indictment proceedings, this making the indictment defective / voidable...

"An unconstitutionally invalid grand jury's indictment is void as a matter of law"  
O.C.G.A. 15-12-40      O.C.G.A. 45-11-4

There is proof that certain judicial officials involved with indictment(s)/case(s) 14-752 & 14-455 failed to provide the petitioner vital due process protection(s) from the moment petitioner first met his appointed counsel in case(s) 14-752 & 14-455 (Counsel Timothy Kimble). Petitioner first met his Counsel in February 2014 at the Bartow County jail where petitioner made Counsel aware of the conflict(s) of interest(s) surrounding his case(s). Failure to equally protect Petitioner's interest from that moment forward made all proceedings thereafter fundamentally unfair, procedurally unfair, and unable to withstand constitutional muster.

"A judgement is void if the rendering court lacked jurisdiction or acted in a manner inconsistent with due process"  
\* U.S.C.A. Const Amend 5 \*

D) On the day of the Grand Jury indictment (2014) for indictment 14-752, the question of fact that in 2008, Petitioner was tried and convicted of this exact same crime once before. It is therefore the job of the prosecutor (D.A.)

Defendants counsel failed to file a motion of Autrefois Convict to show the courts that he has already been tried and convicted of this exact same (lesser) crime years before, by law this location is a Restaurant thus making it A Business not A Home!!! (6)

and the defendants counsel and the presiding judge to make a presentment to the Grand Jury during the indictments that Petitioner has been accused, tried and convicted of this exact same charge (in 2008) only it was legally deemed and convicted as a lesser offense. (See evidence 2 given) In 2008, petitioner was formally accused of and convicted for 2<sup>nd</sup> degree burglary (by Judge Scott Smith) at the exact same location as in the 2014 (14-752) indictment (See evidence 2 given)

1. Autrefois — on another occasion!!!
2. Autrefois convict — to show that the defendant has been convicted of the same offense once before!!!

~~\*~~ ~~\*~~ Norwood vs State Court of Appeals  
249 Ga App. 507; 548 SE 2d 478; (2001)  
Defendant challenged his motion in Autrefois Convict, defendant had right to show evidence of lesser crime and crime of similar nature on his old conviction, but his attorney errored when he failed to produce evidence of such to the courts.

→ A accused has a constitutional right to challenge an indictment if he or his attorney has evidence (evidence 1 was given to Counsel before) to establish that the current charge is legally one of a 2<sup>nd</sup> degree nature and not first. In 2008, in a sidebar between prosecutor Richard Hull (Bartow County), judge Scott Smith, and appointed counsel Samir Patel

Judge Scott Smith ruled that the address in the accusation/indictment was and is a legally operating business known as "Grand Oaks" (302 W. Main St, Cartersville, GA), a restaurant/special events home. On transcript in September 2008, Judge Scott Smith even verifies to the courts publicly that he is "aware" that I was an employee of the victim at this location and that he has known the victim for many years (privately).

In 2008 if I was charged and convicted of the lesser 2<sup>nd</sup> degree burglary crime and if in 2013 (Nov 2013) when the other crime took place, if the location is still a restaurant/special events home (302 W. Main St Cartersville, GA) known as "Grand Oaks", then by law Petitioner was to have been indicted of the exact same lesser charge of 2<sup>nd</sup> degree burglary (14-752) and not indicted as in 1<sup>st</sup> degree nature. The Grand Jury was never made aware of that the address on the indictment (14-752) was a business (restaurant/special events home) and not a residence. Grand Jury also was not made aware of the fact that in 2008 defendant was convicted of 2<sup>nd</sup> degree burglary at this exact same location and not 1<sup>st</sup> degree burglary.

Defective Indictments - if the defendant's Counsel does not raise objections to defects in the underlying indictment \* Henderson vs. Hames 510A0363 (Ga 7-12-2010); the Georgia Supreme Court held that a defendant receives ineffective assistance of Counsel as a result

of his counsels failure to challenge the defective indictment. As a result of the defendants counsels failure to raise these arguments on directed appeal, the Habeas Court ordered Hames convictions to be vacated.

\* Grogan vs. State 297 Ga App. 251 (2009)  
The Court of Appeals stated: "while a plea of guilty waives all defense known and unknown, the defendant does not waive his right to claim that the (or a) indictment itself charges no crime or is defective. A general demurrer challenging the validity of the (prior or current) indictment may be raised at any time".

Charles W. Wolfram, Modern Legal Ethics  
12.3.4. (1986) "beyond the prohibition against presenting blatantly false evidence, what restraints are placed on lawyers to prevent their taking steps in litigation to create impressions in the mind of the fact finder that a lawyer knows to be false"...

It is my contention by factual evidence herein that (Bartow County Superior) court failed to constitutionally obtain the pre-requisite "Competent [due process] Jurisdiction", which isn't discretionary, but rather constitutionally mandated, both by Georgia and Federal Constitutions, (O.C.G.A.) 17-7-1, (article I, section 8, article III, section 1, article VI) Amendment 14 binding on all inferior courts...

If a Court or its officials that serve it are competent enough to understand law(s), then they should be competent enough to fairly and without any form of prejudice to fulfill the law(s) according to procedures, cannons, codes, oaths and constitutional rights. It is a judicial officials duty to protect EQUALLY wether its an accused, accuser or peer. The Petitioner had a right constitutionally to a fair indictment proceeding, a fair plea, a fair sentence without any "hidden motives", "hidden agendas" or "hidden conflicts" that the Grand Jury should have been told about publicly in court!!!

Accordingly, the United States Constitution Prohibits abridgement of ones constitutionally protective rights and that it is an ethical duty of the States (Judges) and (Prosecutors) and (Appointed Counsels) to honor their oath(s) of office to protect the rights of defendants, (no matter) how gross even the alleged crime(s) or whom the alleged crime was against or whom may appear before them is anything to the contrary is not withstanding, and is without judicial immunity protections and sanctions, torts or disbarment.

See: Judicial Cannon 3

The matter at Bar is plain and simple void. It is a well established legal fact that a void judgement as before mentioned can be raised at any time, in any court where it is proven to be void.

See (O.C.G.A. 9-12-16).....

E) On day of sentencing (6-23-14), defendants Counsel (Timothy Kimble) openly and publicly admits the matter at hand as "Conflictual" when he tells the Petitioner, "You broke into Mickey Rays uncles place."

1) Mickey Ray is the Head asst D.A. to Bartow County (Mickey Ray Thacker) and his uncle is the victim in case no: 14-752 (Charles Ray Thacker). When Counsel Kimble publicly makes this statement to the Petitioner as reason to as why "you cant get a better deal", it establishes the D.A. (Thacker) and the attending prosecutor and Counsel Kimble as Conflicting parties to the case 14-752. This statement made by Counsel Kimble alone establishes "hidden conflicts" and "prejudicial motives" on the States behalf. It was to ethically and according to procedure, according to due process and equal protection to had been both D.A., attending prosecutor, appointed counsel and judges responsibility to fairly and without prejudice protect the petitioners rights without the Conflict of interest at hand surrounding the case outweighing justice that constitutionally by law should had prevailed, but it was disregarded.

This unethical lack of equal protection, purposely driven conflict between the judicial members against the defendant is warranting enough to claim the sentence on that day as void and legally vacated by law.

F) Petitioner contends that on his sentencing day (6-23-14) he had advised his Counsel (Kimble) that he wanted to present evidence to the presiding Judge (Nelson) that would "Lesser" the charge on 14-752 from 1<sup>st</sup> degree burglary to 2<sup>nd</sup> degree burglary due to the fact that it is a established business/restaurant and defendant had in hand a copy of his 2008 accusation/indictment that established a "lesser crime". Plus Petitioner told his Counsel (Kimble) that he could obtain (at his public disposal at the Clerks office) public business records to further establish his claim of a "lesser" crime.

Petitioners Counsel (Kimble) warned him that if he opened his mouth and said one word to the Judge on (transcript) record about the evidence, then the D.A. was going to ensure him a severe punishment in doing so. Petitioner contends that the attending prosecutor and Counsel (Kimble) both "texted" via SMS messaging these details and these "texts" between Counsel and D.A. are a matter of evidence in this case (all texts involving this case(s)). All texts on cell phones are recorded and stored in memory banks by cellular companies for policing purposes. Any Judge can have these texts brought forth as evidence to prove the Petitioners case as factual.

This also establishes "prosecutorial selective headhunting"...

2008 indictment evidence 1  
(read degree burglary as ruled on by Judge)

ACCUSATION

GEORGIA, BARTOW COUNTY

IN THE SUPERIOR COURT OF BARTOW COUNTY  
STATE OF GEORGIA

COUNT 4

On behalf of the people of the State of Georgia, the undersigned, as prosecuting attorney for the county and state aforesaid, does further hereby charge and accuse

LESTER ROBERT BAKER

with the offense of BURGLARY O.C.G.A. § 16-7-1,

for that the said accused on or about July 28, 2008, in the above-stated County and State did unlawfully then and there WITHOUT AUTHORITY AND WITH THE INTENT TO COMMIT A THEFT THEREIN, ENTERED A <sup>BUILDING</sup> ~~RESIDENCE~~ BELONGING TO CHARLES RAY THACKER LOCATED AT 302 WEST MAIN STREET, CARTERSVILLE, GEORGIA,

No Autrefois convict was filed on my behalf by my counsel at all. This 2008 indictment (2<sup>nd</sup> degree burglary) is A mirror image indictment to 14-752 (2014)

contrary to the laws of this State, the good order, peace and dignity thereof.

This is A copy of the original 2008 accusation where I was originally charged with 1<sup>st</sup> degree but the Judge ruled in a sidebar that I was a business and not a home

By law in 2014 I should have been indicted in 2<sup>nd</sup> degree not in 1<sup>st</sup> degree because it is still a restaurant, not A house !!!

PAGE 4 OF 7

*T. Joseph Campbell*

T. Joseph Campbell  
District Attorney  
Cherokee Judicial Circuit

Note the attending prosecutor on this Sept 2008 day crossed out residence and put building making the charge 2<sup>nd</sup> degree

2014 indictment

evidence 2

**BILL OF INDICTMENT**

**GEORGIA, BARTOW COUNTY**

**IN THE SUPERIOR COURT OF SAID COUNTY**

\*14-752\*

The Grand Jurors Selected, Chosen and Sworn for the County Aforesaid, To-Wit: Case no!

**1. CATHLEEN C. CRAY, FOREPERSON**

- 2. ERIC L. BOGART
- 3. ~~BRITTNEY N. CLARK~~
- 4. DAN H. LACOSS
- 5. ~~DEBBIE LYNN WISE~~
- 6. MITCHELL E. KING
- 7. DAVID A. FORT
- 8. FRANK O. JOHNSON
- 9. AMANDA A. BISHOP
- 10. DONALD A. PAYNE
- 11. SUSAN E. GLAWSON
- 12. TINA L. MORRISON

- 13. COLLEEN CORP
- 14. HEMA P. PATEL
- 15. JUSTIN A. MITCHELL
- 16. EMMA K. CORNETT
- 17. TAMMY J. WILKES
- 18. JOSHUA RYAN AKERS
- 19. ~~ANDREW G. BUSH~~
- 20. LAVERN SUE DOVER
- 21. LINDA S. BRYANT
- 22. ALICIA M. SILVERS

**IN THE NAME AND ON BEHALF OF THE CITIZENS OF GEORGIA, CHARGE AND ACCUSE**

**LESTER ROBERT BAKER**

with the offense of BURGLARY IN THE FIRST DEGREE, O.C.G.A. § 16-7-1(b)

for that the said accused between the 18th day of November, 2013, and the 19th day of November, 2013, the exact date of the offense being unknown to the Grand Jury and in the County aforesaid did unlawfully then and there

WITHOUT AUTHORITY AND WITH THE INTENT TO COMMIT A THEFT THEREIN, ENTER THE DWELLING HOUSE OF ANOTHER, TO WIT: CHARLES RAY THACKER LOCATED AT 302 WEST MAIN STREET, CARTERSVILLE, GEORGIA,

D.A.'s Uncle!!!

contrary to the laws of this State, the good order, peace and dignity thereof.

**PRESENTMENT**

David A Bojczuk  
Cartersville Police Department  
Prosecutor

Rosemary M. Greene, District Attorney  
Cherokee Judicial Circuit

by law this is still a business/restaurant and should have been 2nd degree not 1st

PAGE 1 OF 8

Also, this man is the D.A.'s Uncle x see the

this address is the restaurant known as "Grand Oaks"

Conflict of defective indictment

# Certificate of Service

I hereby certify on this 2 day of December, 2015 that I served the foregoing Appeals Briefing and enumerated errors via U.S. mail with sufficient postage to ensure the delivery to the following:

Clerk/Court of Appeals  
of Georgia  
Ste. 501  
47 Trinity ave  
Atlanta, GA 30334

Lester Robert Baker

X Lester Robert Baker  
Pro Se litigant

December, 2, 2015

Motion/Petition to Request an  
Oral Argument on Case no#'s  
(docketed#)-A16A0589  
(docketed#)-A16A0590

I, Lester Robert Baker, do hereby request respectfully that an oral argument be granted as related to case # A16A0589 and #A16A0590 as duly scheduled for March 2, 2016 before the first division: P. J. Andrews, C. J. Doyle, J. Ray, and that defendant respectfully be allowed to attend....

Respectfully submitted,  
Lester Robert Baker

Lester Robert Baker  
Pro Se litigant

on this day: December 2, 2015