

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

SCANNED

September 21, 2015

To: Mr. Eric Barney, GDC987731, Riverbend Correctional Facility, 198 Laying Farm Road,
Milledgeville, Georgia 31061

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. The mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W., Suite 572, Atlanta, Georgia 30334.
- 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. Our docket indicates your attorney of record is Katherine Mason, Esq., 402 Taylor Street, Augusta, Georgia 30901. We are returning your documents to you.**
- 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.

Courts of Appeals

August 31 2011

RE: A15A1528 ERIC BARNEY V. STATE

RECEIVED IN OFFICE
2015 SEP -3 PM 4 15
CLERK OF SUPERIOR COURT
JUDICIAL BRANCH
STATE OF GEORGIA

Barney argues that he went to trial in, April, 11-12th of 2011, for Burglary. Indictment / case No: 10-CR-138 one count. During the trial of indictment No: 10-CR-138, I Barney, had a pending Burglary charge, Indictment No: A15A1528, two counts. In the Indictment No: A15A1528, Barney had two co-defendants name: Jonathan Smith, and Travoski Harris. During the trial of case No: 10-CR-138 Burglary one count. on April 11-12th of 2011, The state used The pending Burglary case No: A15A1528 two counts as a similar transaction in the trial of April, 11-12th of 2011, as evidence because case No: A15A1528 had co-defendants which were, Jonathan Smith, and Travoski Harris. They both got on the stand for the state and the trial of April, 11-12th of 2011, went to a direct verdict. With the evidence from case No: A15A1528 which had co-defendant Mr. Smith, and Mr. Harris.

On October 16th of 2012, Barney went to trial for case No: A15A1528 Burglary two count which Barney had two co-defendants, Jonathan Smith and Travoski Harris. During the trial of October, 16th 2012. When Mr. Harris were called to testify for the state.

During Mr. Harris, testimony on, Direct Examination. (Trial Transcript) pg. 89 ID# 20-25. The Judge gave her personal doubt about state witness. Also see (Trial Transcript) pg. 1 ID# 5-25.

Also see (Trial Transcript) pg. 95 ID# 6-25 from the Judge speaking. Very important.

O.C.G.A. § 17-8-57 provides:

It is error for any judge in any criminal case to express or intimate his or her 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 Supreme Court or Court of Appeals to be error and the decision in the case reversed, and a new trial granted in the court below with such direction as the Supreme Court or Courts of Appeals may lawfully give.

This comment made by the Judge is in regards to what has and has not been proven. This comment by the Judge showed the Jury that the co-defendant Harris has already been found guilty. This would lessen the states responsibility to prove the defendants guilt beyond a reasonable doubt, because the Jury could easily conclude that because the co-defendant who has implicated Mr. Barney has admitted his own guilt, Barney must be guilty as well. It is unwarranted and improper for the prosecution to tell the Jury that the co-defendants have already plead guilty to the charges. The law states: It is error for the district Attorney to tell the Jury that co-defendants named in the indictment had previously entered guilty pleas"

See Middlebrooks v State, 169 Ga. App. 507, 509, 312 S.E. 2d 764 (1984).

Contrary to Middlebrooks, in Mr. Barney's case the same comment was made by the prosecutor, but instead of giving a curative instruction, the trial Judge reiterated the prosecutor's comment. See (Trial Transcript pg. 105 ID# 17-22).

It is error to violate even the spirit of this section. See Taylor v State, 200 Ga. App. 722(3), 59 S.E. 2d. And a violation thereof is a mandatory cause for a new trial. (Cite) Crawford v. State, 139 Ga. App. 347, 348, 228 S.E. 2d 371.

O.C.G.A. 24-6-612. Writing used to refresh memory.

24-6-612 (b) provides: If a witness used a writing to refresh his or her memory before testifying at trial and the court in its discretion determines it is necessary in the interests of justice, an adverse party shall be entitled to have the writing produce at the trial, to inspect it, to cross-examine the witness on such writing, and to introduce in evidence those portions of such writing which relate to the testimony of the witness. If the writing used is protected by the attorney-client privilege or as attorney work product

If a Writing is not produce or delivered pursuant to an order under this Code Section, the Court shall make any order Justice require provided, however, that in Criminal proceedings, when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of Justice so require, declaring a Mistrial. See Hudson v. State, 163 Ga. App. 845.

The state entered a Trial Transcript from another Burglary, case No: 10-CR-138 Burglary one count, Case No: 10-CR-138, Trial on, April, 11-12th of 2011. and it was not an exhibit for the state's evidence in case No: A15A1528.

The District Attorney asks the witness Harris about testifying in case No: A15A1528 — before. see (Trial Transcript pg. 84 20th 7-9; 12-25; pg 85 20th 1-25, pg 86 20th 1-25, pg 87 20th 1-25, pg 88 20th 1-18; pg 90 20th 1-25, pg 92 20th 2-25, pg 93 20th 1-25, pg 94 20th 1-25, pg 95 20th 1-25; pg 96 20th 1-25; pg 97 20th 1-25; pg 98 20th 1-25.

All these pages speak on another trial and another trial transcript, please look into.

Also see: Witnesses / 24-b-604 Interpreters.

To Whom this may concern:

please ~~look~~ look into very important if it can't be brought up now, please bring up in the next step.

Thank and may God Bless you and your foot steps in life.

Eric Barney 987731