

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

SCANNED

June 25, 2015

To: Ms. Rebecca Boone, GDC1179455, Arrendale State Prison, Post Office Box 709, Alto, Georgia 30510

Docket Number: A15A1884

Style: Rebecca Boone 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. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. The judges of the Court of Appeals of Georgia or the Clerk of the Court of Appeals of Georgia should not be listed 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: It is not necessary to have your documents witnessed or notarized. 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

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

To: Rebecca Boone
Docket Number: AISA 1884

Style: Rebecca Boone 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 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 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.
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: It is not necessary to have your documents notarized.
Also you must mail a copy of your documents to the opposing counsel.

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

To Judges of Georgia Court of Appeals
47 Trinity Avenue
Atlanta, GA

FILED IN OFFICE

JUN 22 2015

COURT CLERK
CLERK COURT OF APPEALS OF GA

RECEIVED IN OFFICE
2015 JUN 24 PM 3:17
LENA/COOPER, CLERK OF APPEALS OF GA

Fr Rebecca Boone #1179455
Arrendale State Prison
POB 709
Alto, GA 30510

Re: Evidence documents A - B - C - D submitted
with this enumeration of errors.

June 19, 2015

Dear Judges,

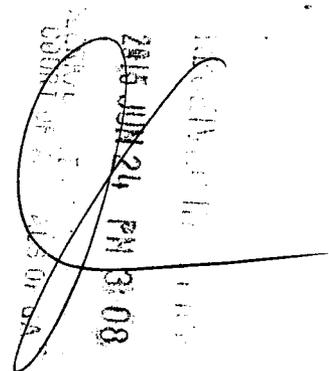
I do not believe I am required to send a copy of this enumeration to your office in addition to the original I am sending to your Clerk's Office but I am trying to ensure that this document arrives at your office. I only had 2 copies each of the above documents A - B - C - D so I submitted a set of them to Cherokee Co. ADA Cliff Head and the other copy to your Clerk with the original of this enumeration of errors and those documents can be referred to there as needed.

cc to file

Rebecca Boone

To Stephen E. Castlen, Clerk
Georgia Court of Appeals
47 Trinity Avenue Suite 501
Atlanta, Ga. 30334

Fr: Rebecca Boone #1179455
Arrendale State Prison
PO Box 709
Alto, Ga. 30510



Re: Enumeration of Errors to the foregoing appeal
case # A15A1884.

June 19, 2015

Dear Mr. Castlen

Enclosed is the Enumeration of Errors to the above appeal
and a Certificate of Service regarding the document.
Copy to Cherokee Co. District Attorney's Office and to the
Judges of the Georgia Court of Appeals that I would like
filed with my case in your office. Thank You

Rebecca Boone

ccto file

DECLARATION OF SERVICE

2015 JUN 24 PM 3:08

On Monday, 06/15/15, I Rebecca Boone, spoke to Ms. Wilbanks, the only notary available to prisoners of Arrandale State Prison. I told her I would need legal papers notarized on Friday, 06/19/15, because Fridays are the only day of the week prison officials will notarize documents for prisoners.

On Friday, 06/19/15, when I asked officers to allow me to take the enclosed Enumeration of Errors and Certificate of Service to Ms. Wilbanks' office to have them notarized I was told Ms. Wilbanks could not notarize my papers today and it would be next Friday before she would notarize them.

As a prisoner I have no access to a proper U.S. mailbox. On this day, Friday 06/19/15, I am handing 3 manilla envelopes containing the above described enumeration of errors to G.D.O.C. c/o Portney to mail for me with adequate postage thereon.

I have no further power to ensure these documents are forwarded to the Cherokee Co. D.A.'s Office and the Ga. Court of Appeals in time.

Please subpoena G.D.O.C. c/o Portney to testify to the above facts should that be necessary

COPY TO FILE - ADA HEAD - JUDGES/CLERK GA. APP. CT.

Rebecca Boone

Date 06/19/15

Pro Se GDC # 1179455
Arrandale State Prison
POB 709
Atto, Ga 30510

Witness Aretha Williams

Witness Capol See Roberson D-B-4

CERTIFICATE OF SERVICE

I Rebecca Boone defendant herein, pro se, do hereby certify that I have on this day, served a true and correct copy of the Enumeration of Errors of the foregoing appeal case # A15A1884 by placing same in the U.S. Mail with adequate postage prepaid thereon and addressed to:

Cherokee Co. ~~D.~~ Ass't Dist Atty Cliff Head
40 North Street Suite 390
Canton, Georgia, 30114

Judges of the Georgia Court of Appeals
47 Trinity Avenue
Atlanta, Georgia, 30334

Clerk of Georgia Court of Appeals
47 Trinity Avenue
Atlanta, Georgia, 30334

Pro Se GDC # 1179455
Arrendale State Prison
PO Box 709
Alto, Georgia 30510

Sworn and subscribed before me this 19th day of June, 2015
Notary Public

TABLE OF CASE LAW

Page #'s cited

- 5 - AAA. Hwy Express Inn v Hagler 72 Ga App 519,
278 SE2d 462 (1945)
- 49, 32 - Adams v Wainwright 709 F2d 11th Cir (1983)
- 26 - Aron v U.S. 291 F3d 708, 714-15 11th Cir (2012)
- 28 - Birt v State 256 Ga. 483, 350 SE2d 241 (1986)
- 41 - Blackledge v Allison ~~431~~ 431 U.S. 63 1977
- 43 - Blake v Zant 513 F Supp 706 772 S.D. GA. (1981)
- 36 - Boone v State 282 Ga. App 67, 637 SE2d 795 (2006)
- 29 - Bradley v State 292 Ga 607 740 SE 2d 100 (2013)
- 26 - Canady v U.S. LEXIS 140293 Oct (2014)
- 28 - Coperton v AT Massey Coal Co U.S. 129 S.Ct
2252, 2266, 173 LEd 2d 1208 (2009)
- 19, 29 - Cochran v State 315 Ga. App. (2012)
- 8, 35 - Code v Montgomery 799 F2d 1481-84 11th Cir (1986)
- 13 - Coleman v Thompson 501 U.S. 722, 750, 115 LEd 2d 640 (1991)
- 14 - Daniels v Williams 474 US 327 88 LEd 2d 662
- 26 - Darden v Wainwright 477 U.S. 168, 91 LEd 2d 144 (1986)
- 27 - Davenport v State 157 Ga. App (1981)
- 5 - D.O.T v Delta Mac Prods Co 157 Ga App 423 278 SE2d 73 (1981)
- 44 - Dowling v State 294 Ga App 413 Oct (2008)
- 19, 29 - Ferrell v Hall 640 F3d 1199 (2011)
- 41 - Finch v Vaughn 67 F3d 909 Oct 31, (1995)
- 31 - Garcia-Duran v U.S. US Dist LEXIS 58847 (2013)
- 40 - Garland v State 283 Ga 657 SE2d 842 (2008)
- 28 - Gillis v City of Waycross 247 Ga App 119, 122,
543 SE 2d 423 (2000)

page #s cited

- 31 - Godfrey v McDonough US Dist LEXIS 25079 (2007)
- 8, 35 - Gomez v Beto 462 F2d 596 597 5th Cir (1972)
- 36 - Green v Nelson 595 F3d 1245, 1278-52 11th Cir (2010)
- 10 - Harris v State 278 Ga. 280, 600 SE2d 592 (2004)
- 4 - Heath v State 268 Ga. App 235, 601 SE2d 758 (2004)
- 8, 34 - Hill v Lockhart 474 US 52 59-60 88 LEd 2d 203 (1985)
- 14 - Holcomb v Gray 234 Ga 7, 214 SE 2d 512
- 38 - Holsey v State 271 Ga 856, 860, 524 SE2d ~~43~~473 (1999)
- 13 - Hudson v Whitley 979 F2d 1058
- 29 - Ingram v State 279 Ga 132, 610 SE2d 21 (2005)
- 6 - Johnson v Zerbst 304 US 458, 464, 58 S.Ct 1019
82 LEd 146 (1938)
- 11 - King v Bell 378 F3d 550, 553, 554 6th Cir (2004)
- 28 - King v State 246 Ga. 386 Sept (1980)
- 14 - Leslie v Williams 235 Ga App 657 150 SE2d 130 (1998)
- 39 - Lynd v State 262 Ga 58 (1992)
- 16 - Malloy v Hogan 378 US 1 84 S.Ct 1489 12 LEd2d 653 164
- 42 - Maples v Thomas 181 LEd 2d 807 U.S.
- 27 - Merritt v State 254 Ga App (2002)
- 40 - Marshall v Lonberger 459 US 422 (1983)
- 41 - Martin 760 F2d at 1247
- 16, 27 - Mendenhall v Hopper 453 FSupp 977 S.D.GA 1978
aff'd 591 F2d 1342 5th Cir (1979)
- 32, 44 - Miles v Martel 696 F3d 889 (2012)
- Missouri v Frye US 132 S.Ct 1399, 182 LEd2d 379 (2012)
- Moran v Clark 296 F3d 638 (2001)
- Murray v Carrier 477 US 478, 488, 91 LEd 2d 397 (1986)

page #'s cited

- 41, 43 - *McBryan v McElroy* 510 FSupp 706, 712 n2 (N.D.Ga.) 1981
- 21 - *McKinney v Pate* 20 F3d 1550 11th Cir (1994)
- 26 - *McLaughlin v Payne* LEXIS 588 GALEXIS 588 (2014)
- 29 - *Nazario v State* 293 Ga. 480, 746 SE2d 109 (2013)
- 19 - *N. C. v Pierce* 395 US 711, 724 89 Sct 2072 73 LEd2d 656 (1969)
- 27 - *Nevelle v Classic* 141 FSupp 2d 1377 11th Dist Jan (2001)
- 27 - *Nichols v State* 17 Ga. App. 593, 87 SE 817 (1916)
- 37 - *Nixson v Newsome* 888 F2d 112 11th Cir (1989)
- 29 - *Polanco v State* 328 Ga App 513 (2014)
- 31, 49 - *Prou v U.S.* 199 F3d 37, 48 1st Cir (1999)
- 33, 40 - *Purvis v Crosby* 451 F3d at 740-43
- 32, 39 - *Ramos v Dept of Corr.* 575 Fed Appx 845 (2014)
- 5 - *Registe v State* 287 Ga. 452 July (2010)
- 42 - *Roe v Flores-Ortega* 145 LEd 2d 985 528 U.S. 470
- 19 - *State v Germany* 246 Ga. 455, 456 271 SE2d 851 (1980)
- 27 - *State v Griffin* 224 Ga App 225 Jan (1997)
- *State v Mamedov*
- 44 - *Sechler v State* 316 Ga App July (2012)
- 14 - *Shouse v Ursitt*. US Dist LEXIS 32409 May (2006)
- 16, 33, 34, 44 - *Strickland v Washington* 466 U.S. at 692
- 5 - *Thompson v State* 168 Ga App 734, 310 SE2d 725 (1983)
- 42 - *Tiller v State* 96 Ga. 430, 23 SE 825 (1895)
- 32 - *Tompkins v Hall* 291 Ga 224 July (2012)
- 32 - *Troxel v Granville* 530 U.S. 57, 65, 120 S.Ct. 2054, 147 LEd2d 49 (2000)
- 5 - *Tyree v State* 262 Ga. 395, 418 SE2d 16 (1992)

page #'s cited

- 3, 33, 34 - US v Cronin 466 US 648-658-59 8 LEd 2d 657 (1984)
- 33, 40 - US v Lawson 686 F3d 1317 11th Cir (2012)
- 23 - US v Marshank 777 FSupp 1507
- 8, 35 - US v Mills 760 F2d 1116, 1121-22 11th Cir (1985)
- 23 - US v Montaner US Dist LEXIS 16739 Jan (2012)
- 27, 31 - US v Price US Dist LEXIS 126126 11th Dist July (2009)
- 24 - US v Stringer 535 F3d 929 (2008)
- 37 - Walker v Haggins 290 Ga. 512 722 SE2d 725 (2012)
- 16, 21 - Washington v Glucksberg 521 US 702, 117 S.Ct 2258, 138 LEd 2d 772, 97 CDOS 5008 (1997)
- 32 - Wean v Budz US App LEXIS 24503 Dec (2014)
- 29 - Wharten v Henry 266 Ga 557 SE 2d 1996
- 35 - Wiggins v State 539 US 510, 522 156 LEd 2d 471 (2003)
- 33 - Wilcox v Ford 626 FSupp 768 Dec (1985)
- 38 - Wilson v State 217 Ga 73, 75-78, 90 SE2d 557 (1955)
- 41 - Woodard v Collins 898 F2d 1027, 1025 5th Cir (1990)
- 16, 21 - Zinerman v Burd 108 LEd 2d 100, 494 US 113 (1990)
- 50 - Kotteakos v US 328 US 750 776 46 SCt 1239
90 LEd 1557 (1946)

Federal or State Statutes / Ga. Court or State Bar Rules

- 4th, 5th, 6th and 14th US Constitutional Amendments
- Ga. Code of Judicial Conduct 3 c (1)(a)
- " " 3 (5)
- O.C.G.A. 15-18-5
- " " 16-1-7(a)
- Ga. State Bar Rule 4-102(d):17

GEORGIA COURT OF APPEALS

RECEIVED
2015 JUN 26 PM 3:09
CLERK OF COURT

THE STATE OF GEORGIA

v

Cherokee Co. Indictment No. 03CR0293

REBECCA BOONE - Defendant

ENUMERATION OF ERRORS AND CITATIONS OF AUTHORITY REGARDING DEFENDANT'S APPEAL OF THE TRIAL COURT'S DISMISSAL OF DEFENDANT'S MOTION TO CONTEST THE ASSISTANT DISTRICT ATTORNEY'S MOTION TO DISMISS DEFENDANT'S 2011 APPEAL OF THE TRIAL COURT'S DENIAL OF DEFENDANT'S 2011 MOTIONS TO WITHDRAW HER GUILTY PLEA OUT OF TIME AND OUT OF TIME APPEAL, THE TRIAL COURT'S DISMISSAL OF DEFENDANT'S MOTION TO REVIVE THE ABOVE 2011 MOTIONS, THE TRIAL COURT'S DISMISSAL OF DEFENDANT'S APPEAL, AND THE TRIAL COURT'S FAILURE TO PERMIT DEFENDANT TO SUBMIT THESE MOTIONS PRO SE. The Ga. Appeals Court rather than the Ga. Supreme Court has jurisdiction to hear and consider this appeal.

Comes now Rebecca Boone, defendant herein, forced to proceed pro se with her enumeration of errors and citations of authority regarding defendant's appeal to this Georgia Court of Appeals of the trial court's dismissal

e

of defendant's Motion to Contest the Assistant District Attorney's Motion to Dismiss defendant's 2011 appeal of the trial court's denial of defendant's 2011 Motions to Withdraw her Guilty Plea Out of Time and Out of Time Appeal, the trial court's dismissal of defendant's Motion to Revive the above 2011 Motions, the Trial Court's dismissal of defendant's appeal, and the trial Court's failure to permit defendant to submit these Motions pro se.

Herein defendant will cite numerous incidents of prejudice she suffered as a result of ineffective assistance of her trial attorney Harvey and his associates who were ineffective at defendant's related Cobb County criminal cases and told defendant if she was convicted in those related Cobb County cases she would have to plead guilty in the related underlying Cherokee County criminal cases and when due to ineffective assistance of counsel defendant was convicted in the related Cobb County cases Attorney Harvey coerced defendant to plead guilty before a Cherokee County Trial Court he knew to be biased and prejudiced against defendant.

Also defendant received ineffective assistance by her Cobb County Appeal Attorney Longhi when after describing how the bias and prejudice of Cherokee County Sheriff's Office Officials, Cherokee County District Attorney's Office Officials and Officials of the Blue Ridge Judicial Circuit had affected her Cobb County trial in that all evidence, witnesses, and testimony presented

at defendant's Cobb County ^{trial} ^{RP} were brought from and compiled in Cherokee County by Cherokee County Officials known to be biased and prejudiced against defendant, Attorney Longhi misinformed defendant that he could not present that evidence ^{in appeal} ^{RP} but could only present evidence that Atty Harvey had objected to on the record when Atty Longhi knew or should have known a trial attorney's ineffective assistance of counsel could have been and should have been presented in defendant's Cobb County ^{RP appeal} ~~trial~~ of the related underlying criminal cases against her. (U.S. v Cronin 466 US 648 658-59 8 LE2d 657 1984 where there is no meaningful adversarial representation by counsel)

Defendant continued to receive ineffective assistance of counsel when Atty McNeill Stokes was retained to submit an application for Writ of Habeas Corpus and as a formality prepared and submitted the Motions to Withdraw Guilty Plea Out of Time, Out of Time Appeal, and Extraordinary Motion for a New Trial on defendant's behalf and the focus of this instant appeal. Atty Stokes told defendant he had to submit the above Motions to exhaust all state remedies before he could submit defendant's application for Writ of Habeas Corpus. Defendant told Atty Stokes of the bias and prejudice against her by Officials of Cherokee County Sheriff's Office, Cherokee County District Attorney's Office and the Blue Ridge Judicial Circuit and Atty Stokes failed by refusing to submit grounds of ineffective assistance

of defendant's trial counsel as it pretains to her Cherokee County guilty pleas, and the denial of defendant's Constitutional right to an impartial criminal investigation, prosecutor, and trial court in the underlying criminal cases against defendant.

The Sixth Amendment of the United States Constitution holds that "a defendant will be relieved of his burden to establish prejudice stemming from counsel's errors in 3 instances:

- 1) actual or constructive denial of counsel;
- 2) government interference with defense counsel;
- 3) counsel who labors under an actual conflict of interest."

Heath v State 268 Ga App 235, 601 SE 2d 758 (2004)

Even though defendant is not required to establish prejudice due to ineffective assistance of counsel and/or gov't interference with her att'y/client relationship defendant has suffered prejudice and will describe it hereafter in this appeal.

Defendant made the proper request to trial att'y Harvey's associate Atty David West who assured defendant he would file and later assured defendant he had filed the proper Motion to Recuse those Cherokee County Officials known to be biased and prejudiced against defendant from the underlying criminal cases against her.

See Registe v State 287 Ga. 452 July 12, 2010
Tyree v State 262 Ga. 395, 418 SE2d 16, 1992
(If defendant moves to recuse court officials the trial motion should be granted.)

This Motion to Recuse should be part of defendant's record that was transmitted to this Appeals Court for their review in this instant appeal and if the Motion to Recuse was not transmitted to the Appeals Court defendant requests the court grant defendant a hearing so that Atty West can be questioned regarding the Motion to Recuse which he filed on defendant's behalf in the underlying criminal cases against her.

AAA Hwy Express Inn v Hagler 72 Ga. App. 519
278 SE2d 462 (1945)

DAT v Delta Mac Prods Co. 157 Ga. App 423, 278
SE2d 73 1981

Thompson v State 168 Ga. App 734, 310 SE2d 725 (1983)
(Indirect evidence as well as every fact or circumstance serving to throw light upon the issue being tried is proper.)

Defendant has never waived her right to have these Cherokee County officials known to be biased and prejudiced against her recused from the underlying criminal cases against her because to do so would deny defendant an impartial law enforcement criminal investigation; prosecutor,

and trial court as has occurred for this defendant in the underlying criminal cases against her and defendant's Motions to Withdraw her Guilty Plea Out of Time, and Out of Time Appeal at issue in this instant appeal.

The United States Supreme Court has made clear that the waiver of a fundamental Constitutional right cannot be presumed, it must be ~~ation~~^{RB} intentionally relinquished.

Johnson v Zerbst 304 U.S. 458, 464, 58 S.Ct. 1019

82 LEd 146 1938 (The determination of whether there has been an intelligent waiver must depend in each case upon the particular facts and circumstances surrounding that case (overruled in part by Edward v Arizona 451 U.S. 477 101 S.Ct 1880, 68 LEd 2d 378 1991))

The first and most egregious error by the Cherokee Co. trial Court was that they did not recuse themselves from the underlying criminal cases against defendant and their second error was they did not properly consider and make a decision on defendant's Motion to Recuse Cherokee Co. Officials known to be biased and prejudiced against her so their decision could be reviewed by a higher court thereby ^{RB} ensuring defendant was not deprived of her Constitutional right to an impartial criminal investigation, prosecutor, and trial court as defendant has been denied in these underlying criminal cases against her.

The trial Court's failure to properly rule on defendant's Motion to Recuse those Cherokee Co. Officials known to be biased and prejudiced against defendant, ^{have caused RB} defendant's Motions to Withdraw the Guilty Plea Out of Time and Out of Time Appeal ^{to} have not been considered and ruled on by an impartial Court and defendant has been denied her Constitutional right to due process and defendant requests this Ga. Appeals Court grant her appeal, allow her to withdraw her Cherokee Co. guilty plea out of time and to grant her a new trial in Cherokee Co. before an impartial trial Court and prosecutor.

At defendant's Cobb Co. trial of the related criminal cases against defendant which trial Atty Harvey had already asserted to defendant would determine whether or not she would have to plead guilty in Cherokee Co., Atty Harvey was ineffective assistance of counsel when he ignored defendant's statements to him that she felt like she had been drugged on the evening the underlying crimes occurred in Cherokee and Cobb Co. because she could recall almost none of the events that occurred during the underlying crimes. Atty Harvey admitted that defendant had told him she felt like she had been drugged in defendant first Habeas Corpus ^{RB} hearing the transcript of which defendant submitted as document # 11 in her appeal.

Defendant's trial attorney erred by failing to investigate the involuntary intoxication of defendant at the time the underlying crimes occurred as he admitted in defendant's first Habeas Corpus hearing the transcript of which defendant submitted as doc. # 11 with her appeal.

Defendant's trial attorney also erred by failing to investigate the existing, available, mitigating evidence of oxycontin and alcohol Cherokee Co. Sheriff's deputies seized from defendant's truck pursuant to defendant's arrest near to and within minutes of the occurrences of the underlying crimes which supports defendant's claim of involuntary intoxication at the time the underlying crimes occurred.

Code v Montgomery 799 F2d 1481 1482-84 11th Cir (1986)

United States v Mills 760 F2d 1116, 1121-22 11th Cir (1985)

Gomez v Beto 462 F2d 596 597 5th Cir (1972)

(Regarding failure by defendant's trial atty to investigate and submit the affirmative defense of involuntary intoxication where there was obvious, available, mitigating evidence to support that claim even though requested to do so by defendant, "it can hardly be said defendant has had effective assistance of counsel.")

Hill v Lockhart 474 U.S. 52 59-60 88 LEd 2d 203 1985

(Regarding the prejudice surrounding an attorney's failure to investigate or discover exculpatory evidence.)

Instead defendant's trial atty offered no viable defense for defendant in the Cobb Co. trial that consisted entirely of Cherokee Co. evidence thus was ineffective assistance of trial counsel at defendant's Cobb Co. trial and again in the underlying Cherokee Co. criminal cases against defendant when he followed through with his previously stated intention that if defendant was convicted in Cobb Co. she would have to plead guilty in the underlying Cherokee Co. criminal cases against defendant and thereafter led defendant before a Cherokee Co. trial Court known to be biased and prejudiced against defendant as she had told her trial attorney had been reported in the Sept. 19, 2000 and the May 3, 2001 Atlanta Journal Constitution (AJC herein) newspaper articles defendant submitted as doc # 14 and # 15 with her appeal and as shown in the Equal Employment Opportunity Commission (EEOC herein) action against the Cherokee Co. District Atty's Office which defendant submitted as doc. # 13 with her appeal, and coerced defendant to plead guilty.

Due to government interference by Officials of the Cherokee Co. District Atty's Office and/or the trial Court with defendant's atty/client relationship with trial atty and/or Atty Stokes who submitted the Motions to Withdraw Guilty Plea Out of Time, Out of Time Appeal, and Extraordinary Motion for a New Trial all of defendant's counsel, Mr. Harvey, Mr. Longhi, and Mr Stokes have rendered ineffective assistance of counsel for defendant in the underlying criminal cases against her, ignoring defendant's

requests and interests, none of these attorney's fulfilling their duty to be defendant's advocate in any meaningful sense of the word, their performances falling well below an acceptable level of advocacy for defendant in the underlying criminal cases against her or they would never have allowed defendant to be investigated, prosecuted, and adjudicated by Cherokee Co. Officials that evidence indicated were biased and prejudiced against her in violation of her Constitutional right to due process and effective assistance of counsel guaranteed by the 4th, 5th, 6th, and 14th Amendments.

Either error or government interference by the Cherokee Co. Superior Court Clerk caused the failure in 2011 to transmit defendant's entire case, omitting nothing, to this Georgia Appeals Court pursuant to defendant's Nov. 29, 2011 Notice of Appeal of Cherokee Co. trial Court's denial of defendant's Motions to Withdraw the Guilty Plea Out of Time and Out of Time Appeal and Extraordinary Motion for a New Trial.

Either error or gov't interference by the Georgia Department of Corrections (GDOC herein) Officer who failed to deposit defendant's 2011 appeal of the denial of the above Motions after defendant placed the manilla envelopes containing the appeal in her hands, Harris v State 278 Ga. 280 600 SE2d 592 2004 (nonamendable defect that whether by accident or mistake caused defendant to forfeit a procedure she was otherwise entitled to)

Defendant has been, for procedural default due to that unadjudicated appeal, denied her application for Certificate of Probable Cause and the subsequent Motion for Reconsideration by the Ga. Supreme Court which defendant submitted with her appeal as doc # 35, #36, #37, and #38 just as Cherokee Co. Officials knew or should have known would happen for defendant in her future legal motions and actions. This is also another example of the prejudice suffered by ^{defendant due to} Cherokee Co. Court Officials known to be biased and prejudice against defendant.

King v Bell 378 F3d 550, 553, 554 6th Cir 2004

(the gov't could prevent any defendant from filing a timely claim simply by failing to transmit relevant evidence in a case.)

Defendant requests this Appeals ^{Court} consider the actions and inactions by her trial attorney, Cobb Co. appeal att'y, Atty Stokes who submitted the Motions at issue here as a formality so he could submit an application for Writ of Habeas Corpus, as well as Officials of the Cherokee Co. Sheriff's Office, Cherokee Co. Dist. Atty's Office and Officials of the Blue Ridge Judicial Circuit known to be biased and prejudiced against defendant before, during, and after the Cherokee Co. hearing for the ²³ ~~the~~ Motions at issue in this instant appeal. because defendant is entitled to either:

A.) have had her 2011 appeal of the trial Court's denial of her Motions to Withdraw the Guilty Plea Out of Time, Out of Time Appeal, and Extraordinary Motion for a New trial considered on its merits by this Appeals Court; or

B.) to have had the issues of ineffective assistance of all her counsel and the denial of an impartial law enforcement investigation, prosecutor, and trial court in the underlying criminal cases against her decided on the merits in her Habeas Corpus and the subsequent application for Certificate of Probable Cause and Motion for Reconsideration of the denial of her habeas corpus.

So far Government Interference and/or Ineffective assistance of all defendant's counsel have prevented her from doing so even though it was within the Ga. Supreme Court's discretion in defendant's application for Certificate of Probable Cause and Motion to Reconsider just as it is now within this Georgia Court of Appeal's discretion to determine that the denial of defendant's fundamental Constitution right to effective assistance of counsel and an impartial investigation, prosecution, and trial Court for defendant in the underlying criminal cases against ^{her RB} overcomes any procedural bar that exists to prevent this fundamental miscarriage of justice.

Hudson v Whitley 979 F2d 1058

(a "fundamental miscarriage of justice" implies that a Constitutional rights violation probably caused the conviction of an innocent person, which includes the affirmative defense of Involuntary Intoxication supported by the evidence.)

Murray v Carrier 477 U.S. 478, 488, 91 LEd 2d 397 1986

Coleman v Thompson 501 U.S. 722, 750, 115 LEd 2d 640 1991

(Showing cause and prejudice of ineffective ass't counsel overcomes procedural bar of why claims of Constitutional rights violations, such as defendant has suffered, 'were not properly presented and ruled on by the trial court.')

If defendant was denied her Constitutional rights by Officials of the Cherokee Co. Sheriff's Office, Cherokee Co. District Atty's Office, and Officials of the Blue Ridge Judicial Circuit when she was the victim of domestic violence by her abusive highranking Cherokee Co. Sheriff's Deputy husband, as she was, and as was reported in the Sept. 19, 2000 and the May 3, 2001 AJC newspaper articles submitted as documents #14 and #15 with this appeal and which may be referred to there as they pertain to this brief, how much more likely is it that these same Cherokee Co. Officials have, as defendant claims herein, denied her Constitutional rights as defendant is enumerating when the United States Supreme Court has made clear that not only the rights enumerated in the U.S. Constitution's Bill of Rights but also

certain unenumerated rights merit heightened protection against government interference with a defendant's criminal case and his atty/client relationship?

Holcomb v Gray 234 Ga 7, 214 SE2d 512

(It is the policy of the Ga Appellate Courts to avoid dismissing appeals and to try to reach the merits of every case.)

Leslie v Williams 235 Ga App 657 150 SE2d 130 (1998)

(The Appellate Court exercises its discretion to reach the merits)

Daniel v Williams 474 U.S 327 88 LE2d 662

Shouse v Ursitti U.S. Dist LEXIS 32409 May 2006

(Includes a substantive component to provide heightened protection against govt interference of Constitutional right no matter how fair the procedure used to implement them is. 14th Amendment

I. Defendant's Cherokee Co. Trial Judge erred in the following enumerated manner:

error 1) By not recusing himself from defendant and the underlying criminal cases against her pursuant to Ga. Code of Judicial Conduct 3 c (1)(a) which provides a court official shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

The extrajudicial sources of disqualifying bias which is the first prong of the test in Strickland v Washington 466 US 668 687 (3) 104 S.Ct. 2052 80 LE2d 674 (1984) regarding the trial judge

are the Sept. 19, 2000 and the May 3, 2001 A.J.C. newspaper articles which reported the maltreatment of, bias and prejudice against defendant by Officials of the Blue Ridge Judicial Circuit which defendant submitted with the appeal at as doc. # 14 and # 15.

In doc # 14 in paragraph # 10 the A.J.C. reported how Officials of the Blue Ridge Judicial Circuit refused to grant defendant's divorce unless she dropped the multiple domestic violence charges against her abusive high ranking Cherokee Co. Sheriff's Deputy husband, which she refused to do and the court later dismissed anyway.

In doc # 14 in paragraph # 18 the A.J.C. reported how the Cherokee Co. Dist Atty. refused to prosecute defendant's abusive high ranking C.C.S.O. deputy/husband for the domestic violence charges levied against him by defendant even though the Dist Atty's Office had jurisdiction and the responsibility to do so.

The remainder of the A.J.C. article (doc. # 14) described the false justification other Officials gave for dismissing the domestic violence charges against defendant's C.C.S.O. husband who had abused defendant and women before her with impunity during the entire length of his law enforcement career. Decades.

Cherokee Co. trial Judge Harris expressed his negative opinion of defendant and her domestic violence charges against her C.C.S.O. husband to Director Meg Rogers of the Cherokee Co. Battered Women's Shelter and defendant requests a hearing so this issue can be considered by this appeals Court.

Defendant has suffered prejudice of being denied an impartial trial judge which she will enumerate later herein and that prejudice is the second prong of the test in Strickland v Washington regarding "cause" and "prejudice" to over procedural bars.

Washington v Glucksberg 521 US 702, 117 S.Ct. 2258, 138 LEd 2d 772, 97 CDOS 5008 (1997) (The Court reaffirmed the U.S. Constitution provides heightened protection against gov't interference with certain fundamental rights and liberty interests and forbids gov't to infringe on fundamental liberty at all.)

See also McKinney v Pate 20 F3d 1550 11th Cir (1994)

citing Zinerman v Burch 108 LEd 2d 100, 494 U.S. 113 (1990)

Malloy v Hogan 378 US 1, 84 S.Ct. 1489 12 LEd 2d 653 164 (Fifth Amendment privilege is applicable through the due process clause of the Fourteenth Amendment.)

Mendenhall v Hopper 453 F Supp 977 (S.D.G.A. 1978) aff'd 591 F2d 1342 5th Cir (1979)

Moran v Clark 296 F3d 638 Sept(2001) (14th Amendment guarantees "substantive due process which prevents govt from engaging in conduct that shocks the conscience or interferes with rights implicit in the concept of ordered liberty.)

error 2) by not recusing the Cherokee Co. Dist. Atty and his subordinate asst dist attys from defendant and the underlying criminal cases against her pursuant to Ga. Code of Judicial Conduct 3(5) which provided that not only the judge but staff, court officials, and others subject to the judges direction and control shall perform judicial duties without bias or prejudice and to allow defendant to be prosecuted by the Officials of the Dist Atty's Office when the judge knew or should have known of the E.E.O.C. action taken by defendant before the criminal charges against her when she was employed by the Dist Atty's Office and had to take the E.E.O.C. actions against the Dist Atty's Office for sexual discrimination of, retaliation against defendant. ^{RB.} ~~when she was emp~~
Id.

error 3) by not recusing Cherokee Co. Sheriff's Office Officials that the judge knew or should have known to be abusive of, bias and prejudice against defendant and pursuant to Ga. Code of Judicial Conduct 3(5) named above to continue to be actively involved in the criminal investigation of defendant and the underlying criminal

cases against her especially regarding the collection and chain of evidence such as the blood samples of defendant and her co-defendants taken by search warrant shortly after defendants' arrests near to and within minutes of the occurrence of the underlying crimes which may have been tampered with in that there is a glaring discrepancy between what the results of the Ga. Bureau of Investigation (GBI herein) blood tests report and the evidence of oxycodone and alcohol seized by C.C.S.O officials from defendant's truck pursuant to arrest and the testimony of defendants about the drugs and alcohol that were consumed the evening the underlying crimes occurred, defendants involuntarily in violation 4-5-14 finding?

Id.

error 4) by not giving defendant credit for the years and months she served in the county jail pending trial pursuant to her arrest in Cherokee Co. by C.C.S.O deputies in the underlying criminal cases against her when both defendant's co-defendants did receive credit for the same time they served in the county jails pending trial as shown in the GDOC sentence computations submitted as doc #20 and #21 in defendant's appeal. These GDOC sentence computations also demonstrate the proper impartiality of the Cobb Co. Court who gave all defendant's credit for all the time they each served in various county jails pending trial.

Trial Judge Harris's singling defendant out for harsher treatment than her co-defendants and other police officers who had been similarly situated as defendant by not giving defendant credit for the almost three years she served in the county jails pending trial is another demonstration of prejudice defendant suffered as a result of being denied an impartial trial judge. Also the second prong of *Strickland v Washington*, *N.C. v Pierce* 395 U.S. 71 724 89 S.Ct 2072 23 Let 2d 656 (1969) *Cochran v State* 315 Ga App (2012) *Ferrell v Hall* 640 F3d 1199, (2011) (error not to give credit for time served in county jail pending trial and a harsher sentence than others in similar situations constitutes prejudice.)

error 5) by not allowing defendant to file for final disposition of additional charges stemming from these underlying criminal charges in violation of the U.S. Constitution's Speedy Trial Clause submitted as doc # 24 with defendant's appeal and confirmed by Mr. Bonner of the Ga. Public Defender Standards Council in his letter submitted as doc. # 25 with this appeal.

Id.

error 6) by not advising defendant at her plea hearing that she could withdraw her guilty plea.
State v Germany 246 Ga 455, 456 271 SE2d 851 (1980)

II. The Cherokee Co. District Attorney erred regarding defendant and the underlying criminal cases in the following enumerated manner:

error 1) By not recusing himself and his subordinate assistant district attorneys from defendant and the underlying criminal cases against her even though the defendant had previously been employed at the Cherokee Co. District Attorney's Office and subsequently had to file a Federal EEOC action against the Cherokee Co. District Attorney's Office for sexual discrimination of, retaliation against defendant when she was employed there and the proof of this EEOC action was submitted as doc. # 13 with defendant's appeal and can be referred to there as it pertains to this brief.

The Georgia Code of Judicial Conduct Canon 3c (1)(a) provides that a court official should disqualify himself in any proceeding in which his impartiality might be reasonably questioned.

Due to the above described EEOC action as well as the context of the AJC newspaper articles submitted as doc. # 14 and # 15 in this appeal the impartiality of the Cherokee Co. District Attorney's Office regarding defendant might reasonably be questioned thus should have been recused from defendant and her cases

Washington v Glucksberg 521 US 702, 117 SCt 2258
138 LEd 2d 772, 97 CDOS 5008 (1997)

(Reiterated the U.S. Constitution

1) provides heightened protection against gov't interference with certain fundamental rights and liberty interests.

2) forbids gov't to infringe on fundamental liberty and interests at all.)

McKinney v Pate 20 F3d 1550 11th Cir (1994) citing
Zinerman v Burch 494 US 113 1990

error - 2) By not contacting the Georgia Attorney General pursuant to O.C.G.A. 15-18-5 which provides that "when a district attorney is disqualified from interest or relationship from engaging in a prosecution the District Attorney shall notify the Attorney General of the disqualification. The Attorney General is then authorized to request the services of and thereafter... appoint a competent attorney to act as district attorney pro tempore.

Due to the personal interest in defendant's cases the District Attorney in Cherokee Co. did not disqualify himself and his subordinate assistant dist. attys neither did he notify the Attorney General pursuant to O.C.G.A. 15-18-5 stated above and as a result defendant has been denied her Constitutional right to an impartial prosecutor in the underlying criminal cases against her.
Id.

error - 3) By having conferences with defendant's trial attorney regarding defendant and the underlying criminal cases against her outside the presence and knowledge of defendant constituting prosecutorial misconduct, a personal interest in defendant's case and govt interference with defendant's attorney/client relationship.
Id.

error - 4) By being present in the courtroom at defendant's preliminary hearing which demonstrates a personal interest in defendant's case.

Id.

error - 5) By entering into an agreement with defendant's trial attorney outside the presence and knowledge of defendant to have defendant's trial attorney apologize to him on defendant's behalf in open court at defendant's preliminary hearing constituting personal interest, prosecutorial misconduct and gov't interference with defendant's attorney/client relationship when trial atty and District Atty followed through with the apology described above.

Id. Also:

U.S. v Montaner US Dist LEXIS 16739 Jan 23 2012
("When gov't interference in an atty/client relationship results in ineffective ass't counsel or when gov't engages in outrageous misconduct (see U.S. v Marshank 777 F Supp 1507) in that case the 4th Circuit held that a claim of gov't interference with atty/client relationship has 3 components.

1) gov't was objectively aware of an on-going personal atty/client relationship

2) gov't deliberately intruded into that relationship
3) as a result defendant suffered actual and substantial prejudice.

see also U.S. v Stringer 535 F3d 929 2008

The Cherokee Co. District Atty knew Atty Harvey was representing defendant in the underlying criminal cases against her as demonstrated when trial atty Harvey apologized to the District Atty on defendant's behalf at defendant's preliminary hearing where the District Atty was present and stood to receive the apology from trial atty.

The Cherokee Co. Dist. Atty deliberately intruded in defendant's atty/client relationship with her trial atty by holding conferences with defendant's trial atty outside the presence and knowledge of defendant to meet agree to meet in the courtroom in open court at defendant's preliminary hearing in defendant's presence and stand to receive the apology from defendant's trial atty on defendant's behalf.

As a result defendant's trial atty did not follow through with the Motion to Recuse Officials of the Cherokee Co. D.A.'s office 1 and other Cherokee Co. Officials known to be biased and prejudice against defendant which at defendant's request had been

filed in Cherokee Co. by Atty West, associate of trial atty Harvey, on defendant's behalf in the underlying criminal charges against.

Defendant has requested, and hereby again requests the Ga. Appeals Court ensure the transcript of the defendant's preliminary hearing described in the previous paragraphs be transmitted to them for their review in this defendant's instant appeal as the actions by defendant's trial atty and the District Atty are relevant to defendant's appeal, the preliminary hearing and its transcript are a part of defendant's entire case which defendant requested in her Notice of Appeals be transmitted to the Appeals Court omitting nothing.

If the transcript ~~has~~^{RB} described herein has not been transmitted to the Ga. Appeals Court defendant, pursuant to her June 3, 2015 Motion to Correct the Omission of Sealed Deposition with Video Interview in regard to defendant's underlying cases, requests this Court to compel the Cherokee Co. Officials to transmit the preliminary hearing transcript described above to them for their review as it is a part of the entire case that should be transmitted to and considered by this court,

or in the alternative grant defendant a hearing so defendant's trial atty Harvey and the District Attorney at the time of the above described preliminary hearing occurred can be questioned about the apology incident.

The failure, due in part by the above described govt interference with defendant's atty/client relationship, of defendant's trial attorney to follow through with the Motion to Recuse Cherokee Co. Officials known to be biased and prejudiced against defendant has caused her to suffer actual and substantial prejudice in that an apology to the District Atty was directly against defendant's wishes and subsequently defendant's trial atty failed to follow through with the Motion to Recuse that had been filed at defendant's request, defendant was denied her Constitutional right to an impartial prosecutor in the underlying criminal cases against her as well as other prejudices defendant will describe in this appeal.

McLaughlin v Payne Co LEXIS 588 July 2014

(personal interest in defendant's criminal case)

Darden v Wainwright 477 U.S. 168, 91 LEd 2d 144 (1986)

(improper presence so infected the defendant's case with unfairness as to make the resulting plea a denial of due process.)

Canady v U.S. LEXIS 140293 Oct 2014 see also

Aron v U.S 291 F3d 708, 714-15 11th Cir 2012

(if defendant alleges facts that, if true, would entitle him to relief then the Court should order an evidentiary ^{hearing} and rule on the merits of his claim.)

Moran v Clark 296 F3d 635 Sept 2001 (14th Amendment guarantees substantive due process which prevents gov't from engaging in conduct that shocks the conscience or interferes with rights implicit in the concept of ordered liberty and prohibits conduct that otherwise offends & judicial notions of fairness or is offensive to human dignity.)

U.S. v Price U.S. Dist LEXIS 126126 July 2009 11th Dist. (counsel working in contravention of Strickland and its progeny.)

Nevelle v Classic 141 F Supp 2d 1377 Jan (2001) 11th Dist. (Court concerned that "prosecutors exercise formidable and easily abused power!")

State v Griffin 224 Ga App 225 Jan 1997; see also

Merrit v State 254 Ga App 2002

(Both District Attys of the above two cases recused themselves and their asst dist. attys due to an interest or relationship associated with the case. The Attorney General was properly notified.)

Davenport v State 157 Ga App (1981) ("it was improper and reversible error for the D.A. to be present in the courtroom even though the D.A. did not try the case himself due to his prior relationship to the victim")

Mendenhall v Hopper 453 F Supp 977 (S.D. GA.) (1978)

aff'd 591 F 2d 1342 5th Cir (1979) (Failure by judge to disqualify a judicial ^{officer} ~~RB~~ which serves to deprive defendant of an unbiased trier of the facts is a denial of due process.)

Nichols v State 17 Ga. App. 593, 87 SE 817 (1916) (Court held 'it was good Ga. Law to recuse certain court officials'.)

Caperton v A.T. Massey Coal Co. US 129 S.Ct 2252, 2266,
173 LE2d 1208 (2009); see also

Gillis v City of Waycross 247 Ga. App 119, 122,
543 SE2d 423 (2000)

(It is possible for a disqualifying conflict of interest to arise where prosecutor has acquired a personal interest in defendant's conviction.)

King v State 246 Ga. 386 Sept 1980 see also

Birt v State 256 Ga. 483, 350 SE2d 241 1986

(It is possible for a court official to have a personal bias or prejudice against a defendant, consequently it is error for the court official to be involved in a criminal case against defendant.)

error 6) By not having all criminal charges stemming from the underlying criminal charges adjudicated at the same time and not advising defendant that there would be additional charges and an additional prison sentence to the sentence defendant is now serving. Defendant submitted the documents that show the additional related charge by the Cherokee Co. Dist. Atty's Office as doc. #23 and #24 with her appeal and can be referred to there as it pertains to this brief. Defendant also submitted Cherokee Co. Court document #22 that showed the charges that were Nol Pros against defendant.

Polanco v State 328 Ga App 513 2014

Bradley v State 292 Ga. 607 740 SE 2d 100 (2013)

Ingram v State 279 Ga 132 610 SE 2d 21 (2005)

(Court erred in failing to merge charges of agg. assault and armed robbery when the act was committed at the same time, place, and inspired by the same criminal intent.)

Nazario v State 293 Ga. 480, 746 SE 2d 109 (2013)

(A conviction which merges with another conviction is void and a sentence imposed on such a conviction is illegal under O.C.G.A 16-1-7(a) which provides that a defendant may not be legally convicted of a crime that is included in another crime for which defendant also stands convicted.)

The Cherokee Co. District Atty knew or should have known of the Ga. law and how the court considered such cases and the additional charge and pending prison sentence which defendant was singled out for by Cherokee Co. Court officials was a demonstration of prejudice against defendant. Defendant was denied an impartial prosecutor.

Wharton v Henry 266 Ga 557 SE 2d 1996

(Re: Ga. Rules of Court Ann. 33.8 - a reviewing court conducting a manifest injustice review is not limited to the record of the guilty plea, but may consider subsequent evidence presented to the court.)

Ferrell v Hall 640 F3d 1199 (2011) and Cochran v State 315 Ga App (2012)

(a harsher sentence than others similarly situated constitutes prejudice)

Defendant's co-defendants did not receive additional charges.

III. Defendant's trial Attorney Harvey was ineffective assistance of counsel for defendant at her Cherokee Co. plea negotiations and hearing and erred in the following enumerated manner:

- error 1) By not following through to completion and allowing the trial court to properly rule on defendant's Motion to Recuse those Cherokee Co. Officials of the Sheriff's Office, the District Atty's Office and Blue Ridge Judicial who were known to be biased and prejudiced against ^{her} which had been filed on defendant's behalf by Mr. Harvey's associate Atty David West.

Defendant had described to both Trial Atty Harvey and his associate Atty West the bias and prejudice against her by Cherokee Co Officials and told them both of the Sept. 19, 2000 and May 3, 2001 A.J.C. newspaper articles that reported the maltreatment of, bias and prejudice against defendant by officials of the Cherokee Co. Sheriff's Office, Cherokee Co. Dist Atty's Office and the Blue Ridge Judicial circuit. She also told both attys of the Federal EEOC action she had to take against the Cherokee Co. District Atty's Office for sexual discrimination of, retaliation against

defendant when she had previously been employed by the Cherokee Co. District Atty and submitted these documents as #13, #14, and #15 with her appeal and they can be referred to these as they pertain to this brief.

Atty Harvey's failure to follow through to completion and allow the Court to rule on defendant's Motion to Recuse caused defendant to forfeit a legal procedure to which she was otherwise entitled and as a result defendant was denied an impartial criminal investigation, prosecutor and trial court in the underlying criminal cases.
Pro v U.S 149 F3d 37, 48 1st Cir 1999

(When atty fails to raise (or follow through with) an important obvious defense without any imaginable strategic or tactical reason for the omission his performance falls below a standard of proficient representation the U.S. Constitution demands)

Garcia - Duran v U.S. U.S. Dist. LEXIS 58847 Apr 2013
(Atty who gives bad advice as to accepting a plea is ineffective and defendant is entitled to relief.)

Godfrey v M^cDonough U.S. Dist LEXIS 25079 Apr (2007)
(Atty caused defendant to forfeit a judicial proceeding to which defendant was otherwise entitled.)

U.S. v Price U.S. Dist. LEXIS 126126 11th Dist July (2009)
(Atty working in contravention of Strickland and its progeny.)

Miles v Martel 696 F3d 889 2012

(6th Amendment right to effective counsel extends to plea bargaining process.)

Tompkins v Hall 291 Ga. 224 July 2012

(Ineffective ass't counsel is sufficient to overcome procedural bar.)

Adams v Wainwright 709 F2d 11th Cir (1983)

(A tactical decision is ineffective ass't counsel if it is so patently unreasonable that no competent att'y would have chosen it.)

Defendant's Trial Atty Harvey's tactical decision to not follow through with defendant's Motion to Recuse that Atty West had filed on her behalf at her request was so patently unreasonable that no competent att'y acting as advocate in any meaningful sense of the word would have chosen it because there is no right more fundamental than a defendant's right to an impartial criminal investigation, ~~prosecution~~ prosecutor, and trial judge in criminal cases against him.

Wean v Budz US App LEXIS 24503 Dec 2014

Troxel v Granville 530 US 57, 65, 120 S.Ct 2054, 147 LEd2d 49 (2000)

(Due Process Clause has a substantive component that provides heightened protection against gov't interference with attorney/client relationship.)

Ramos v Dept of Corr 575 Fed Appx 845 July 2014

(The U.S. Supreme Court established in Strickland v

Washington that prejudice must be proven for all claims of ineffective ass't counsel except those situations involving the actual or constructive denial of counsel, gov't interference with atty/client relationship and an actual conflict of interest.) See also

Purvis v Crosby 451 F3d at 740-43

U.S. v Lawson 686 F3d 1317 11th Cir (2012)

Strickland v Washington 466 U.S. at 692 citing

U.S. v Cronk 466 U.S. 648, 659, 104 S.Ct 2039, 80 LEd2d 657

and n. 25 466 U.S. 648, 104 S.Ct 2039, 2046-47, 80 LEd 2d 657

~~and n. 25~~ (1984)

Wilcox v Ford 626 F Supp 768 Dec 1985

(Any person convicted of a crime has the right to have his conviction reviewed to determine whether he was treated fairly as per the U.S. Constitution, when there is a mixed question of law and fact the state is not entitled to a presumption of correctness.)

error 2) By failing to investigate and present the affirmative defense, and defendant's only defense, of involuntary intoxication of defendant at the time the underlying crimes occurred when Atty Harvey admitted in his testimony at defendant's August 11, 2011 Habeas Corpus hearing which defendant submitted as document #11 in her appeal and can be referred to there, and where defendant identified the parts of that transcript in which Atty Harvey admitted that "Perhaps, yes."

defendant had discussed with him that she felt like she had been drugged involuntarily on the evening the underlying crimes occurred and that "No, he did not" investigate the affirmative and only defense of defendant's involuntary intoxication at the time the underlying crimes occurred even though defendant told him her co-defendants had come to her home consuming alcohol, oxycontin, cocaine, and methamphetamine and had tried to get defendant to take oxycontin but defendant refused, and even though Cherokee Co. Deputies had seized and still have in their possession the alcohol and oxycontin with co-defendant Peterson's name, prescribing doctor's name, refilling pharmacy's name and the recent date the prescription was last refilled clearly inscribed on the bottle from defendant's truck pursuant to arrest near to and within minutes of the occurrence of the underlying crimes.

Strickland v Washington 466 US at 692

U.S. v Croni: 466 US 648, 659, 104 S.Ct 2039, 2046-47
80 LEd 2d 657 (1984)

(Presumption of prejudice when counsel fails to subject prosecutors case to a meaningful adversarial testing whether counsel is actually or constructively denied during a critical stage of the proceedings.)

Hill v Lockhart 474 US 52, 59-60 88 LEd 2d 203 (1985)

(Trial counsel erred by failing to advise of an affirmative defense where evidence exists to support that defense.)

Code v Montgomery 799 F2d 1481, 1482-84 11th Cir (1986)

Gomez v Beto 462 F2d 596, 597 5th Cir 1972

U.S. v Mills 760 F2d 1116, 1121-22 11th Cir (1985)

Wiggins v State 539 US 510, 522 156 LE2d 471 (2003)

(trial atty's failure to investigate only defense unreasonable)

error 3) By failing to investigate, ^{object to, RB} and question primary witnesses and law enforcement regarding the blood evidence taken by search warrant pursuant to arrests of defendants in the underlying cases near to within minutes of the occurrence of the crimes when Cherokee Co. Officials known to be biased and prejudiced against defendant were at the arrest scene and involved in the chain of evidence regarding that blood evidence and when the GBI Crime Lab test results of that blood evidence contradicts common sense and available, existing, mitigating evidence of the alcohol and oxycontin that Cherokee Co. Deputies seized from defendant's truck pursuant to arrest near to and within minutes of the occurrence of the underlying crimes and which Cherokee Co. officials still have in their possession, the Crime Lab ^{test} results of that blood contradicts witnesses testimony of the co-defendants who admitted they were using alcohol, oxycontin, cocaine, and methamphetamines "all day every day" as defendant pointed out to her trial atty, appeal atty and Atty Stokes and as she pointed out in the Aug. 31, 2011 deposition transcript submitted as document # 4 with

defendant's appeal and should be referred to there as well as the G.B.I. Crime Lab results submitted as document # 16 with this appeal.

Id. and also;

Green v Nelson 595 F3d 1245, 1248-52 11th Cir 2010

(Trial counsel's failure to challenge blood evidence was deficient performance.)

error 4) By not impeaching primary witnesses, co-defendants, properly when both co-defendants admitted they had been coached by Officials of the Cherokee Co. Sheriff's Office and the Dist Atty's Office as to their testimony regarding defendant and defendant's role in the underlying crimes, and co-defendant Amanda Boone admitted she had lied to defendant's Cobb Co jury "5 or 6 times" regarding defendant and defendant's role in the underlying crimes. Co-defendant Peterson testified she had lied to law enforcement in pre-trial statements to them regarding defendant and defendant's role in the underlying crimes but under oath at defendant's Cobb Co trial Peterson did not testify as she had been coached but testified truthfully that she alone robbed the restaurant.

Id

Boone v State 282 Ga. App. 67, 637 SE 2d 795 (2006)

(This is defendant's appeal where first trial atty and then appeal counsel were ineffective for defendant and the Appeals Judge points out, "No question regarding the credibility of the witnesses is presented.")

Nixon v Newsome 888 F2d 112 11th Cir 1989

(Ineffective assistance counsel where counsel failed to properly impeach witnesses.)

error 5) By not objecting to the variance in defendant's Cobb Co. indictment that charged armed robbery and defendant's Cobb Co. conviction for party to the crime of armed robbery especially when trial attorney had said if defendant was convicted in Cobb. Co she would have to plead guilty in Cherokee Co.

Walker v Haggins 290 Ga. 512 722 SE2d 725 (2012)

(Reversible error to charge jury a crime may be committed by either of two methods when the indictment charges that it was committed by one specific method.)

error 6) By allowing defendant to go before a Cherokee Co. Court and prosecutor he knew from defendant's statements to him and the E.E.O.C action by defendant against the Cherokee Co. Sheriff's District Atty's Office and the Sept. 19, 2000 and May 3, 2001 AJC newspaper article that reported the maltreatment of, bias and prejudice against defendant by Officials of the Blue Ridge Judicial Circuit, to be biased and prejudiced against defendant

See case citations from trial atty Harvey's error # 1

error 7) By having conference's with the Cherokee Co. District Attorney regarding defendant and the underlying criminal cases against her outside the presence of and knowledge of defendant and entering into an agreement to, then committing the act of, the Cherokee Co. District Attorney being present in courtroom at defendant's preliminary hearing and standing to receive an apology from trial atty Harvey on defendant's behalf without defendant's authority and directly against defendant's wishes.

Id.

The Georgia Supreme Court has "consistently considered the defendant's absence from a critical part of the trial as a defect not subject to harmless error analysis." Halsey v State 271 Ga. 856, 860, 524 SE2d 473 (1999)

The most critical proceeding for the defendant was the proceeding in which her trial atty and the Cherokee Co. District Attorney determined not to follow through to completion and allow the Court to enter a formal decision on defendant's Motion to Recuse those Cherokee Co. Officials known to be biased and prejudiced against defendant from the criminal cases against her which associate Atty David West had filed in Cherokee Co. at defendant's request, thus denying her impartial prosecutor/court Wilson v State 212 Ga 73, 75-78, 90 SE 2d 557 (1955)

error 8) By allowing Officials of the Blue Ridge Judicial Circuit to interfere with his atty/client relationship with defendant when he knew those Officials to be biased and prejudiced against defendant constituting constructive denial of effective counsel and gov't interference with defendant and the underlying criminal cases against her. This was also "plain error."
Id. and also

Ramos v Dept of Corr. 575 Fed Appx 845 July 2014
(The U.S. Supreme Court instructed in Strickland that prejudice must be proven for all claims of ineffective ass't of counsel EXCEPT constructive denial of counsel or gov't interference.)

Lynd v State 262 Ga 58 1992

(Plain error is an error so clearly erroneous as to result in a likelihood of a grave miscarriage of justice or which seriously affects the fairness, integrity, or public reputation of a judicial proceeding.)

error 9) By first trying to induce defendant to plead guilty in Cherokee Co. by making unfulfillable promises that he would take both of defendant's sentences, Cobb Co. and Cherokee Co, before the Sentence Review Panel "free of charge"

if defendant would plead guilty when he knew or should have known a sentence pursuant to a guilty plea cannot be taken before the Sentence Review Panel, and when trial atty was not able to induce defendant to plead guilty he became violent, slamming his hands down on the table in front of defendant screaming at her, "What is your fucking problem?!" and with that behavior trial atty coerced defendant to plead guilty in Cherokee Co. Id. and also Ga. State Bar Rule 4-02(d):17 "Undivided loyalty by counsel to the client is an essential element to a defendant's right to effective counsel under the 6th Amendment

Purvis v Crosby 451 F3d at 740-743 see also
U.S. v Lawson 686 F3d 1317 11th Cir (2012)

(In certain 6th Amendment contexts prejudice is presumed when there is a constructive denial of effective asst of counsel or gov't interference with defendant's atty/client relationship.

Marshall v Lonberger 459 U.S. 422 (1983)

Garland v State 283 Ga. 657 SE2d 842 (2008)

(One of the 8 exceptions to the presumption of correctness is one in which the court 'on a consideration of such part of the record as a whole concludes that such factual determination is not fairly supported by the record.'))

Missouri v Frye U.S. (132 S.Ct 1399, 182 LEd 2d 379) (2012)

(The U.S. Supreme Court determined that the negotiation of a plea bargain constitutes a critical stage for ineffective assistance purposes.)

Woodard v Collins 898 F2d 1027, 1025 5th Cir 1990
(When a lawyer advises his client to plead guilty to an offense which the lawyer has not investigated such conduct is unreasonable)

Finch v Vaughn 67 F3d 909 Oct 31 1995
(Defendant's guilty plea vacated because of unfulfillable promises made to defendant by his lawyer)

Blackledge v Allison 43 US 63 (1977)
(The U.S. Supreme Court stated 'The barrier of the plea or sentence proceeding record, although imposing, is not insurmountable ... courts cannot fairly adopt a per se rule excluding all possibility that a defendant's representation at the time his guilty plea was accepted were so much the product of such factors as misunderstandings, duress, or misrepresentations by others as to make the guilty plea a constitutionally inadequate basis for imprisonment.

(Id. at 74, 75) In addition, the recitals in the record at the guilty plea which indicate the plea was not induced by threats or promises are not conclusive.' see also McBryar v McElroy 510 F Supp 706, 712 n 2 (N.D. Ga) (1981)
That was a wise assertion by the U.S. Supreme Court because this defendant was subjected to her att'y making unfulfillable promises before resorting to violence to coerce defendant to plead guilty.

Martin 760 F2d at 1247

Tiller v State 96 Ga. 430, 23 SE 825 (1895)

(Defendant's absence during portions of prosecutor's argument.)

As the Cherokee Co. Dist. Atty stood in open court and trial atty Harvey apologized to him on defendant's behalf at her preliminary hearing it was obvious this act was the culmination of a conversation and agreement the Dist Atty and defendant's trial atty had held prior to the defendant's preliminary hearing and even though defendant objected to atty Harvey and his apology to the Dist Atty, Atty Harvey ignored defendant's protestations until shortly after the hearing ended, defendant was led away by Cherokee Co deputies in waistchains and legirons and Atty Harvey walked out of the courtroom.

Roe v Flores-Ortega 145 LEA 2d 985, 528 U.S. 470

Maples v Thomas 181 LEA 2d 807 U.S.

(Common sense dictates that a defendant cannot be held constructively responsible for the conduct of an attorney who is not operating as his agent in any meaningful sense of the word and the authority of an Attorney terminates if without the knowledge of defendant he acquires adverse interests or is he is otherwise guilty of a serious breach of loyalty to defendant.)

When trial atty Harvey apologized in open court to the Cherokee Co. Dist Atty on defendant's behalf with-

out her authority and directly against her wishes he was guilty of a serious breach of loyalty to defendant.

error 10) By not making the proper objection to the Court when he learned that Cherokee Co. Deputies were pausing, with defendant in waistchains and leg-irons, outside the courtroom door to call defendant's abusive high ranking Cherokee Co. Deputy*husband on their police radio to come watch defendant's court proceeding and he would come.

Id.

Moran v Clark 296 F3d 638 (2001)

(14th Amendment guarantees "substantive due process which prevents gov't from engaging in conduct that shocks the conscience.")

error 11) By advising defendant from the beginning of his representation of her that if she was convicted in the related Cobb Co. criminal cases against her she 'would have to plead guilty in Cherokee Co.' when subsequently he was ineffective assistance of counsel for defendant in the related Cobb Co. criminal cases against her.

McBryar v McElroy 510 F Supp 706 N.D. Ga (1981)

Blake v Zant 513 F Supp. 772 S.D. Ga (1981) (rev'd on other grounds) (A defendant is entitled to an atty likely to render, and in fact rendering reasonably effective assistance.)

error 12) By not advising defendant at her Cherokee Co guilty plea hearing that she could withdraw her guilty plea. In defendant's August 11, 2011 habeas hearing, the transcript of which defendant sent to this appeals court with the appeal as doc. # 11 in which she identified the portion of the hearing in which, trial att'y Harvey stated 'he did not remember what he told defendant about withdrawing the plea.' And there ^{was} ~~were~~ ^{RB} no written waiver to memorialize the act.

Att'y Harvey had worked so diligently in his efforts to induce defendant to plead that when she would not be induced he became violent, slamming his hands down on the table in front of defendant screaming "What is your fucking problem?!" and with that behavior coerced defendant to plead guilty so he would in no way thereafter have told defendant she could withdraw that plea. She pled guilty before a biased court.

Missouri v Frye US 132 S Ct 1399, 182 L Ed 2d 379 (2012) 739 SE 2d 30

(Plea negotiations constitute a critical stage for ineffective ass't.

Miles v Martel 696 F 3d 889 (2012) 6 Amendment extends to plea negotiate

Sechler v State 316 Ga App 675 July (2012) Plea set aside

because defendant was not advised of her rights.

Dowling v State 294 Ga App 413 Oct (2008)

(Regarding defendant not being informed that he could withdraw his plea, "does the record establish what information defense counsel provided withdrawal of the guilty plea?")

Strickland v Washington 466 US 668, 687 (3) 104 S Ct. 2052 80 L Ed 2d 67

U.S. v Cronin 466 US 648 658-59 8 L Ed 2d 657 (1984)

State v Mamedov 288 Ga. 858 (2011) Allowed to w/D plea.

error 13) By not ensuring that all criminal charges related to the underlying criminal cases against defendant were adjudicated at the same time.

Defendant submitted with her appeal the Cherokee Co. court document which indicated what charges had been Nol Pros against defendant (doc # 22 with appeal) as well as Cherokee Co. Sheriff's Office Notification of an additional charge of aggravated assault that allegedly occurred during the commission of the underlying crime which even if true should have been merged with the armed robbery charge that defendant was already in prison for. (doc # 23 with appeal) And finally G.D.O.'s acknowledgment to Cherokee Co. Sheriff's Office of the pending charge and pending prison sentence Cherokee Co. Officials have for defendant. (doc # 24 with appeal).

Strickland v Washington

U.S. v Cronin 466 U.S. 648 658-59 LE 2d 657, (1984)

(Presumption of prejudice applies when counsel "fails to subject prosecutor's case to a meaningful adversarial testing whether counsel is actually or constructively denied during a critical stage of the proceeding and plea negotiations have been deemed a critical stage of proceeding.")

Polanco v State 328 Ga. App 513 2014

Nozario v State 293 Ga. 480, 746 SE2d 109 (2013)

(Charges of armed robbery and aggravated assault which stem from the same act should be merged and a conviction which merges with another conviction is void and a sentence imposed on such a conviction is illegal under O.C.G.A. 16-1-7(a) which provides that a defendant may not legally be convicted of a crime that is included in another crime for which defendant also stands convicted.)

error 14) By failing to object^{to} and/or defend defendant when she was singled out by the Cherokee Co. District Atty's Office and the Cherokee Co. Court for harsher treatment than her co-defendants and than others who were similarly situated as defendant.

Defendant's co-defendants did receive ~~time~~ credit from Court for the time they served in the county jails pending trial, defendant did not as defendant demonstrated with her and her co-defendant's GDOC sentence computations submitted as documents #20 and #21 with her appeal.

Defendant's codefendants did not receive an additional related criminal charge to the underlying charges in these cases nor do they have a consecutive sentence pending from Cherokee Co Court as that Court imposed upon defendant.

Id.

IV. Attorney Stokes, who was representing defendant at the Motions to Withdraw the Guilty Plea Out of Time, Out of Time Appeal, and Extraordinary Motion for a New Trial at issue in this appeal and was ineffective assistance of counsel in those Motions in the following enumerated manner:

error 1) By disregarding the requests and expressed wishes of defendant to investigate and present the obvious available, mitigating evidence which supports defendant's claim that Officials of the Cherokee Co. Sheriff's Office, District Atty's Office and Blue Ridge Judicial Circuit are biased and prejudiced against defendant before and during the adjudication of the underlying criminal cases against defendant and the Motions at issue now in this appeal.

Defendant asked Mr. Stokes to represent her in her application for Writ of Habeas Corpus specifically due to his reputation of standing up to gov't officials and told Mr. Stokes so in her 1st letters and conversations with him. Defendant told Mr. Stokes how she had been maltreated by Officials of Cherokee Co., she told him about the Sept. 19, 2000 and the May 3, 2001 A.J.C. newspaper articles reporting the maltreatment of, bias and prejudice against defendant by Cherokee Co. Officials named above.

The following is a list of the letters defendant sent to Atty Stokes regarding the underlying criminal case against her which defendant is including a copy of each with this brief:

The first four letters were sent to Mr Stokes before the Cherokee Co. Judge entered his decision denying defendant motions document A-081609 letter (4 pages) from defendant to Atty Stokes before the hearing on the Motions at issue here, in which defendant informs Atty Stokes

- She had previously worked for the Cherokee Co District Atty's Office, she describes the abuse beginning in paragraph #5 as well as the subsequent retaliation to her. para. #6 she states neither the DA or any of his ADAs should have been involved in the underlying criminal cases. Para #7 her marriage to an abusive CCSO deputy husband; how the CCSO would not enforce protect her from domestic violence by her husband; of the 2 counts of battery charges against her husband that the Cherokee Co. Court allowed to be withdrawn and dismissed; the 2 AJC newspaper articles reporting the Cherokee Co Officials abuse of defendant; Para #8 that CCSO officer/friends of her abusive / Captain husband had been involved in the underlying criminal cases against her; Para # 9 that her trial atty had told her the above information was irrelevant in the underlying cases but that she had wanted it presented to her jury; that her trial atty had not effectively represented her at trial and plea.

document B-101309 letter from defendant to Atty Stokes telling his of the additional charges against her by Cherokee Co. Officials.

document C-110409 letter from defendant to Atty Stokes: In para. #4 she tells Atty Stokes of the 2 years 10 months she served in the county jail pending trial that the Cherokee Co Court did not give her credit for while her co-defendants did receive credit for that time; para #5 asking Mr. Stokes if he had investigated the additional Cherokee Co. criminal charges against her

document D-112109 letter from defendant to Atty Stokes in para #1 how defendant was paying Mr. Stokes more than the agreed upon fee; para #6 defendant writes, "I hired you because of your reputation of standing up to state officials. I had hoped this would include Dist. Attys, judges and sheriff's dept employees. I had also hoped you would admit and act on the fact that Bruce Harvey did not adequately represent me in that he should have insisted on a change of venue due to my history with and victimization by the Cherokee Co. District Atty Garry Moss and the Officials of the Cherokee Co. Sheriff's Office... Please Mr. Stokes, Im begging you."

The above letters were sent to Atty Stokes well before the Cherokee Co. Courts denial of her Motions at issue in this appeal which the Court denied on Nov. 10, 2011.

Pru v U.S 199 F3d 37,48 1st Cir 1999 (when atty fails to raise an important, obvious defense without any imaginable strategic or tactical reason for the omission his performance falls below the standard the U.S. Constitution demands.)

Adams v Wainwright 709 F2d 11th Cir (1983) (A tactical decision is ineffective ass't counsel if it is so patently unreasonable no competent atty would have chosen it.)

US v Lawson 686 F3d 1317 11th Cir (2012)

Strickland v Washington 466 US at 692 citing

US v Cronin 466 US 648, 659, 104 S.Ct 2039, 80 LEd2d 657
and n.25, 466 US 648, 104 S.Ct. 2046-47, 80 LEd2d 657 (1984)

(Actual or constructive denial of counsel, prejudice presumed.

error 2) By failing to investigate and present obvious, available, mitigating evidence which supports her affirmative defense of Involuntary Intoxication at the hearings for the Motions at issue here

Cherokee Co. Sheriff's Deputies seized pursuant to defendant's arrest and still have in their possession the oxycontin with co-defendant's name clearly inscribed on it, as well as alcohol taken from defendant's truck upon arrest minutes after the crimes. It was unreasonable of Atty Stokes not to mention this evidence

Id.

error 3) By failing to challenge the blood evidence taken by Cherokee Co. Search warrant pursuant to these arrests which was analyzed by the G.B. I. Crime Lab and submitted as doc #16 with her appeal whose results are questionable and may have been tampered with in that the tests indicate no alcohol or oxycontin ^{which were} taken from defendant's truck pursuant to arrest and they indicate no cocaine or methamphetamine even though co-defendants testified they were using all the above drugs 'all day everyday.'

Id.

Defendant has demonstrated cause and prejudice in her appeal of the Court's denial of the Motions at issue in this appeal and this appeals Court should grant defendant relief. Kotteakos v US 328 US 750, 76 66 S.Ct 1239 90 LEd 1557 (1946)

Dear Mr Stokes

August 16, 2009

I hope you are well.

I had hoped you & whoever else is necessary to depose my co-defendant, Jamie Peterson, would have gone by now to Pulaski State Prison where Jamie is an inmate & deposed her. As you know, my mother is fighting cancer, my father is a 100% disabled veteran, my brother is handicapped, & as their only daughter I am needed at home desperately.

If I am correct, it will require the deposition from Jamie to even begin to know if the Extraordinary Motions you have filed on my behalf in Cobb Co. & Cherokee Co. will be upheld by the court.

In the meantime, the 4 year limitation on submitting a Habeas Corpus on my case in Cherokee Co. will be up in Jan. 2010. Though I do not know if these Extraordinary Motions will be successful, I do believe a Habeas Corpus would be successful.

To wit: I was an investigator for District Attorney Garry Moss in Cherokee Co in 1989-1990. During that time Moss made sexual advances toward me & I rebuffed those advances. When I rebuffed his advances Moss became angry & would not permit me to attend a training seminar I had been scheduled for months to attend. When Moss did this I gave him a letter stating that I felt he had taken me out of the training class because I had rebuffed his

sexual advances. Moss then fired me. In turn, I went immediately to the Equal Employment Opportunity Commission in Atlanta & filed a lawsuit with them against D.A. Moss. This is a fact on record with the EEOC. Neither D.A. Moss nor any of his assistant District Attorneys should have been involved in the investigation, the prosecution, or sentencing of the criminal case of armed robbery against me.

Furthermore, I was married to Cherokee Co. Deputy Sheriff Alan Gilmore. Gilmore was physically abusive toward me for years. He had a history of domestic violence his entire law enforcement career. Though I filed domestic violence police reports & had temporary protection orders in Cherokee Co., Cherokee Co. Sheriff's office law enforcement personnel failed time & again to protect me. After much resistance, Cherokee Co. courts finally agreed to prosecute my (then) husband, Alan Gilmore, for 2 counts of battery against me. Several years later a Cherokee Co. judge secretly allowed Alan Gilmore to withdraw his guilty plea. This information came to light & subsequently there were 2 articles written in the Atlanta Journal Constitution: Sept. 2000 an article appeared on the front page of the AJC Metro Section; May 2001 another article appeared in the Cherokee Co. section of the AJC. The articles spoke to Cherokee Co.'s failure to protect me from my abusive police officer husband. It told how this

abuser was still active & promoted on the police force. The article also questioned the legality of the Cherokee Co. judge allowing Helmore to withdraw his guilty pleas after the fact & without any notice to the victim; me.

Several of the Cherokee Co. officers who investigated the armed robbery case against me were close friends of my ex-husband, Alan Helmore, who was a Captain on the force. They harbored ill feelings toward me for having him arrested for the acts of domestic violence ^{he committed} against me; to the degree that it is possible their bias against me may have affected the integrity of the criminal investigation against me.

Though my former attorney, Bruce Harvey, told me that the aforementioned facts were irrelevant in the armed robbery cases against me, it is still a fact that I would have wanted the abovementioned facts & the facts of the illicit treatment toward me by Jackson Co. Sheriff & personnel, told to the jury, since I had suffered (& been diagnosed) with a nervous breakdown well before my arrest. Bruce Harvey also told me it was irrelevant, but I maintain, that the only motive in my mind the night I was arrested was "suicide by cop," since these very officers were the cause of my state of mental & physical health at that point in my life. I wanted a jury to hear these facts.

Because of these facts my criminal case of

armed robbery should have never been prosecuted or adjudicated in Cherokee Co. Though I had made my then attorney, Bruce Harvey, aware of the aforementioned facts he failed to see through the appropriate motions & defend me to the best of his ability.

Mr. Stokes, I don't mean to anger or alienate you. I especially don't want this to be a counterproductive effort on my part. As I have been incarcerated almost 70 years & I know I have a strong case for Habeas Corpus & I am needed so badly at home, I cannot help but employ you to do everything in your power to defend me zealously & get me home. Be it Extraordinary Motion or Habeas Corpus, I don't want to lose or forfeit any avenue that could get me home to my family. You would do the same thing if you were in my predicament.

I know my parents have paid you an agreed upon fee. I know this could cause my case to be put on back burner & forgotten. I am willing to pay you more when I am released & able. You tell me what you need in addition to what you have already received.

I hope you will defend me zealously & I thank you in advance for doing so.

Carbon copy to file
Int. Cert. Mail

Sincerely,
Rebecca Boone

Dear Mr. Stokes,

101309

I have just learned from general population counselor Ms. Mize that there is a "detainer" on me in Cherokee Co. I have only been in trouble once in my life & I was arrested & have been incarcerated ever since.

I'm enclosing a copy of the information given to me about this "detainer". Counselor Mize informed me it can only be removed by someone in Atlanta GDOC.

I would very much appreciate if you would help me resolve this problem.

cc to file

Sincerely
Rebecca Brone #1179455
Lee Arrendale Prison G2
PO Box 709
Atto, Ga. 30510

110409

Dear Mr Stokes,

Thank you for your letter dated 10/19/09 telling me you would be scheduling Jamie's deposition in the next few weeks.

However, you did not address my questions to you in my letter to you dated 10/20/09 & 10/30/09.

Do I have 4 years after my conviction/plea, or do I have 4 years after the last motion in each case to file a Habeas?

If my certified affidavit of custodians to GDOC Computation Dept was not enough to receive credit for the 2 years 10 months I served at the county, what needs to be done to get credit for that time? My cousin/co-defendant has received credit for that county time.

Have you made any inquiries to Cherokee Co regarding the detainer Cherokee Co has on me? I sent you the only documentation I had regarding the Cherokee detainer.

I can not make phone calls to inquire about these matters. My parents can not take care of these matters for me.

Mr. Stokes, please do the things you need to do to get me out. I know there are no guarantees but I feel my grounds are strong. My parents need me.

Sincerely,
Rebecca Boon
#1179455
Arundale Pres
PO Box 709
Mt. H. 20510

cc to file

Dear Mr. Stokes

1/00 21, 2009

I hope you are well.

I want to confirm that you have received the check for \$250.⁰⁰ for a total so far of \$500.⁰⁰ you have received from me personally. This is in addition to what you received from my parents, R.V. & Ethel Brown.

My mom, Ethel, along with my dad & brother came to see me Sat. November 21st, 2009. Even though my mom is weak from the chemotherapy & not able to eat solid foods, she came to see me.

Maureen Baker said you told her my mother had died. Maureen sent me a sympathy card. My mother is alive & working very hard to stay alive. Her heart's desire is to see me come home.

The Arrendale Prison does not serve lunch 3 days a week, but I am not buying commissary nor will I receive a Christmas package this Christmas. I am sending all my money to you, Mr. Stokes, even though it is money over the amount that you received from my parents; the amount you agreed to to represent me through trials in Cherokee Co. & Cobb Co.

I hired you because of your reputation of standing up to state officials.

I had hoped this would include District Attorneys, judges & sheriff dept employees - I had also hoped you would admit & act on the fact that Bruce Harvey did not adequately represent me in that he should have insisted on a change of venue due to my history with & victimization by the Cherokee Co. District Attorney Barry Moss & the officials of the Cherokee Co. Sheriff's Office.

My parents & I are doing everything we can to assist you. In my life I have not needed the representation of an attorney except for divorce & this criminal case. At none of these occasions do I feel I was ever represented zealously as I believe an attorney's oath avows he will do. My cousin Yarnie Peterson, also my co-defendant was assigned a court appointed attorney who defended her zealously.

Please, Mr. Stokes, - I'm begging you. You are a capable attorney. I have grounds for a Habeas in addition to what you are submitting in the extraordinary motion. Please stop the routine post-poneing & continuing. For God's sake do this good deed & get me home to my parents who need me.

ps. My ^{collect telephone} recording here at Arrandale only says "collect from Becky".

Thank You,
Rebecca Boone