

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

SCANNED

July 23, 2015

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

Docket Numbers: Style: Rebecca Boone v. The State

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

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. **Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).**
16. **Other:**

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

To Clerk of Georgia Appeals Court
47 Trinity Avenue
Atlanta GA 30334

RECEIVED IN OFFICE
2015 JUL 22 PM 2:28
CLERK OF APPEALS COURT
COURT HOUSE
ATLANTA, GA

From Rebecca Boone 1179455
Arrendale State Prison
PoB 709
Atto, GA 30510

Re: Motion to Set Aside Ga. Appeals Court application for
discretionary appeal case # A15D0432 on June 15, 2015

July 16, 2015

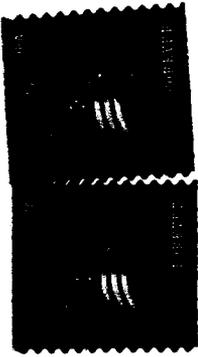
Dear Mr. Costlen,

Enclosed is the original and copy of the above Motion to Set Aside and Certificate of Service. Please stamp the copy "filed" and return it to me here in prison. I am closing two separate self addressed stamped sufficiently envelopes. One is to send the above copy stamped "filed". The other envelope I would like placed in my file to use when the court enters its decision on the above Motion to Set Aside since whether by accident or mistake I did not receive timely notice of the Court's June 15, 2015 I fear that I will not receive timely notice of the enclosed Motion to Set Aside.

cc to file

Respectfully
Rebecca Boone

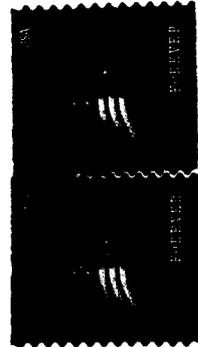
Clerk of
Georgia Court of Appeals
47 Trinity Avenue
Atlanta GA. 30334



LEGAL MAIL

Rebecca Boone 1179455
Arrendale State Prison
POB 709
Alto, Ga. 30510

~~Re~~ Clerk of
Georgia Court of Appeals
47 Trinity Avenue
Atlanta GA 30334



LEGAL MAIL

Rebecca Boone 1179455
Arrendale State Prison
POB 709
Alto GA 30510

FILED IN OFFICE

JUL 16 2015

COURT CLERK
CLERK COURT OF APPEALS OF GA

COURT OF APPEALS
STATE OF GEORGIA

RECEIVED
2015 JUL 22 PM 2:28
COURT OF APPEALS OF GA

REBECCA BOONE

Application for Discretionary Appeal
Case No. A15D0432

VS

THE STATE

MOTION TO SET ASIDE

Comes now Rebecca Boone, Applicant in the above-styled case, proceeding pro se and brings this Motion to Set Aside pursuant to Official Code of Georgia Annotated § 9-11-60(g).

The Georgia Court of Appeals and not the Georgia Supreme Court has jurisdiction to hear and decide this Motion to Set Aside.

There is meritorious reason due to a lack of notice defect when Applicant did not receive Notice of the Georgia Appeals Court's June 15, 2015 denial of the Application for Discretionary Appeal Case No. A15D0432 (see attached copy of Arrendale Prison's

stamp on envelope (Document D) which reads "Received Jul 13 '15 Lee Arrendale State Prison, Alto, GA. Mailroom" which is prison Standard Operating Procedure for documenting the day the prison received the mail. The U.S. Mail postmark on above envelope reads "Jul 8, 2015" which coincides with the date on the Georgia Appeals Court's Notice (Document E) of July 8, 2015 which reads "I have enclosed a complimentary copy of the dismissal" and is the only notice applicant received regarding the June 15, 2015 order, thus just cause to set aside the order and reenter it for purposes of Notice of Intent to Apply Writ of Certiorari.

'The Georgia Supreme Court has repeatedly made clear that whether the losing party of a court's decision actually received notice of the decision is a critical factor in determining whether to set aside and the Georgia Supreme Court held that a court 'mistakenly believed that receipt of notice by a defendant was irrelevant so long as the court found that notice had been sent to the losing party.'

Cambren v Canal Ins. Co. 246 Ga 147, 268 SE2d 426 (1980)

C & P Lender LLC v State Bank and Trust Co.

320 Ga. App. 660 (2013)

Applicant has been harmed in that the 10 day period, within which ~~Fe~~^{RS} Applicant, as losing party, must notify the court of her intent to apply to the Supreme Court of Georgia for a Writ of Certiorari regarding the Georgia Appeals Court's adverse decision entered June 15, 2015, has expired when by accident or mistake (Harris v State 278 Ga. 280, 600 SE 2d 2004) applicant, as losing party of the Georgia Appeals Court June 15, 2015 decision, did not receive notice of the Appeals Court's decision as required.

There is no procedural bar under the aforementioned circumstances and a trial judge has authority to set aside a decision and reenter it based upon a timely notice defect and when applicant's grounds are unmixed with negligence or fault of her own.

Shepherd v Metropolitan Property & Liability Inc. Co.

163 Ga App 650, 294 SE 2d (1982)

City of Monroe v Jordan 201 Ga App 332, 411 SE 2d 511 (1991)

Dupree v Blankenship 83 Ga App 664, 64 SE 2d 457 (1951)

Under O.C.G.A. § 15-6-21 Vacation and re-entry of a judgment for appeal purposes when the losing party has not ~~reenter it based upon timely notice defect~~^{RS} received timely notice of the court's decision as in this court's June 15, 2015 decision applicant is authorized to bring a

Motion to Set Aside under O.C.G.A. §9-11-60

When a judgment is void due to a lack of notice defect as in the Georgia Appeals Court's June 15, 2015 decision of applicant's application for discretionary appeal case # A15D0432 restrictions of the use of Motions to Set Aside cannot apply *Holloway v Frey*, 130 Ga App. 224, 202 SE2d 843 (1973)

Where there is a lack of notice defect and applicant did not receive timely notice of the Court's June 15, 2015 decision an action may be brought under O.C.G.A. § 15-6-21, the Motion to Set Aside may be granted, the judgment reentered and the 10 day period within which the losing party must submit her Notice of Intent to Apply to Georgia Supreme Court for Writ of Certiorari will begin to run from the date of the reentry. *Cambron v Canal Ins. Co.* 246 Ga 147, 268 SE 2d 426 (1980)

Applicant's application for discretionary appeal ~~was~~^{RB} application # A15D0432 was docketed May 26, 2015 See attached document A which is a copy of the Notice of docketing of case # A15D0432

Applicant received by signing for the Georgia Court of Appeals Notice of Docketing in the Lee Arrindale Legal Mail log as per standard operating procedure

on June 24, 2015 See attached copy of Lee Arrendale Legal Mail log on which applicant signed for the Georgia Appeals Court's Notice of Docketing Document B and a copy of the envelope which contained the Georgia Appeals Court's Notice of Docketing post-marked May 29, 2015 and stamped "Received Jun 24 '15 Lee Arrendale State Prison Atto GA Mailroom" which is 29 days from the date of docketing See Document C which is a copy of the above described envelope.

On July 13th, 2015 Applicant received the court's decision which was entered June 15, 2015.

Applicant received the notice that her application for discretionary appeal case # A15D0432 had been docketed 28 days after the court had already dismissed it.

Moreover this the 3rd occurrence in various courts for appellant of suffering a lack of notice defect in addition to the government interference she has suffered from the onset of these underlying criminal charges against her which constitutes a violation of appellant's 14th Amendment privilege under the United States Constitution in which the Equal Protection Clause ensures that every member of society in America be afforded fundamental fairness, equal protection

of laws, and equal access to the courts and which appellant has been denied both before there were any criminal charges against her and even moreso since appellant had the underlying criminal charges levied against her.

This Georgia Appeals Court in their decision of appellants application for discretionary appeal decided said application was superfluous and it may well be but since appellant is not a lawyer, since appellant has suffered government interference in other courts regarding these underlying criminal cases against her, and since appellant does not want to lose even the most remote opportunity to have her case heard and considered on its merits appellant requests this Court set aside its June 15th 2015 order of discretionary appeal case # A15D0432 and reenter the order so that appellant may be afforded the 10 day period within which to submit her Notice of Intent to Apply to the Supreme Court of Georgia for Writ of Certiorari, as per the 14th Amendment of the United States Constitution.

Submitted this 16th day of July 2015

Rebecca Borne
Pro Se / GDC# 1179455
Arrendale State Prison
POB 709
AHO, GA. 30510

COURT OF APPEALS OF GEORGIA

47 Trinity Avenue, S.W., Suite 501
Atlanta, Georgia 30334
(404)656-3450

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

NOTICE OF DOCKETING

APPLICATION FOR DISCRETIONARY APPEAL

IMPORTANT RULE REQUIREMENTS AND INFORMATION

NOTICE OF FILING IN THE COURT OF APPEALS OF GEORGIA

APPLICATION NUMBER: A15D0432

DATE OF DOCKETING: May 26, 2015

STYLE: REBECCA BOONE v. THE STATE

was filed today in the Court of Appeals of Georgia.

The respondent has 10 days from the above filing date to file a response. A response is not required.

This application will be reviewed and the Court of Appeals of Georgia shall issue an order granting or denying such an appeal within 30 days of the date on which the application was filed, O.C.G.A. §5-6-35.

Attorneys: Attorneys: Note that Rule 46 requires that all submissions be via electronic format. E-filing instructions are found at www.gaappeals.us.

Pro Se Filing by US Postal Mail or Delivery Service: The contents of a properly addressed mailing other than a motion for reconsideration shall be deemed filed on the date of the U.S. Postal Service postmark date if it is stamped on the envelope or container. A filing received from an overnight delivery service is deemed filed on the date shown on the envelope or container. If no date appears on the container or envelope of a mailing or delivery, the contents shall be deemed filed on the date of receipt by the court. **Motions for reconsideration are deemed filed on the date the motion is physically received in the Clerk's office, i.e., the postmark date is not relevant.**

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

July 8, 2015

To: Ms. Rebecca Boone, GDC1179455, Arrendale State Prison, Post Office Box 709, Alto, Georgia 30510
Docket Numbers: **A15D0432. Rebecca Boone v. The State**
A15A1884. Rebecca Boone v. The State

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

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
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6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
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15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. **Other: The referenced discretionary application was dismissed on June 15, 2015. I have enclosed a complimentary copy of the dismissal order for your review. (Copies are \$1.50 per page in this Court.)**

A15A1884 is pending in your name before this Court. The appeal was docketed in the September 2015 Term and a decision must be rendered by the Court by the end of the January 2016 Term which ends on or about July 16, 2016.

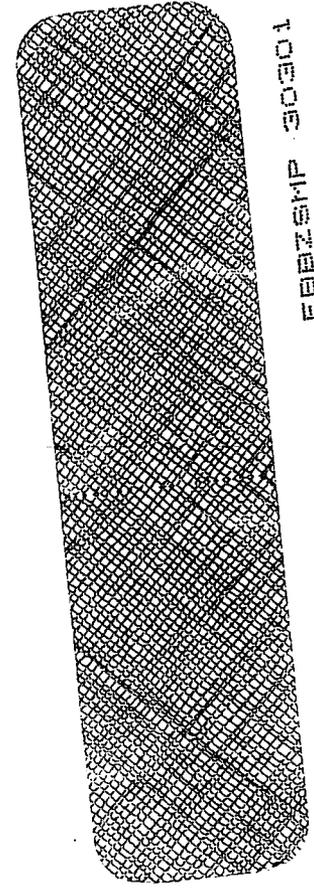
Document C

Court of Appeals of Georgia
Suite 501
47 Trinity Avenue
Atlanta, Georgia 30334

RECEIVED

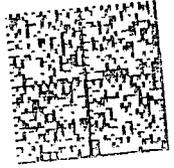
JUN 24 '15

see Atlanta State Prison
Attn: A
MAIL ROOM



EBE25MP 30301

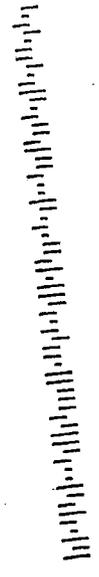
Presort
First Class Mail
ComBastPrice



U.S. POSTAGE >> FITNEY BOWES

ZIP 30336 \$ 000.46⁰
02 1VI
0001386277 MAY 28 2015

OB21



CERTIFICATE OF SERVICE

I Rebecca Boone applicant herein, proceeding pro se, do hereby certify that I have on this day, served a true and correct copy of the Motion to Set Aside regarding application case # A15D0432 by placing same in the U.S. Mail with adequate postage thereon and addressed to:

Cherokee County
Assistant District Attorney Cliff Head
90 North Street Suite 390
Canton, Georgia 30114

Submitted this 16th day of July, 2015

Rebecca Boone
Pro Se / GDC # 1179455
Arrendale State Prison
POB 709
Alto, Georgia 30510