

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

January 27, 2015

To: Mr. David Britt, GDC91060191, Gwinnett County Detention Center, 2900 University Parkway, Lawrenceville, Georgia 30043

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: _____

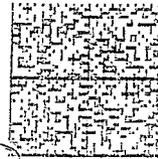
Your document(s) is (are) being returned for the following reason(s).

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia. The address of the Clerk of the Eleventh Circuit Court of Appeals is: 56 Forsyth Street, N.W., Atlanta, Georgia 30303.**
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

OFFICE OF THE CLERK
COURT CLERK
DISTRICT COURT
COURTHOUSE
SPRING STREET, S.W.
ATLANTA, GEORGIA 30303-3361
OFFICIAL BUSINESS

42 Use
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ZIP 30303 \$ 000.69⁰
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Received on Monday
1-12-2015
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14-715-A

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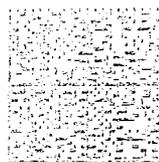
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STATES COURT OF APPEALS

ELEVENTH CIRCUIT
OFFICE OF THE CLERK
56 FORSYTH STREET, N.W.
ATLANTA, GEORGIA 30303

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

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CF on Dec 26
to P.G. Dec 27*
*No App
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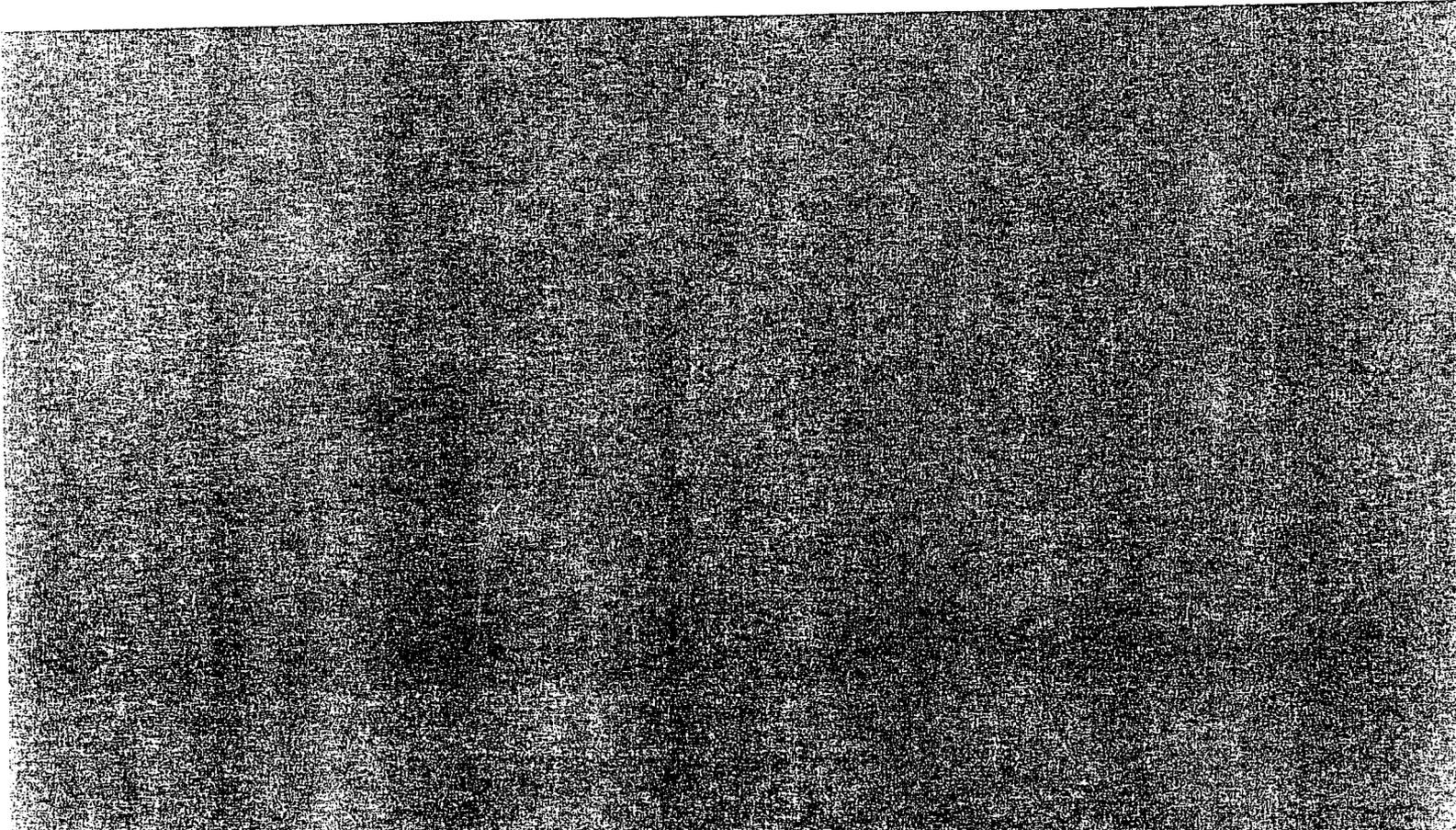
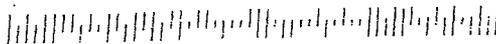
B-109-A

*Successive Use
Pff. 2244*

B-109-A

*Callahan
Received
December 19 1994*

AT



STATES COURT OF APPEALS

ELEVENTH CIRCUIT

OFFICE OF THE CLERK

66 FORSYTH STREET, N.W.

ATLANTA, GEORGIA 30303

OFFICIAL BUSINESS

ENALTY FOR PRIVATE USE, \$300

* Not received by
Inmate until 01/22/2015

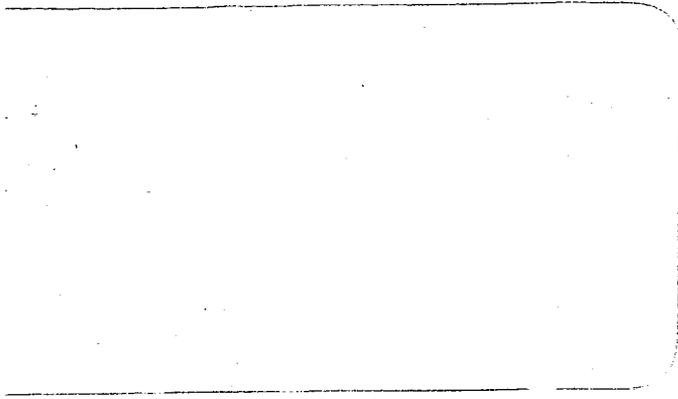
D/S Callahan #1132



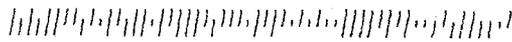
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A-108



United States Court of Appeals
for THE ELEVENTH Circuit

DAVID EARL BRITT

Appellant

vs

BUTCH CONWAY, Sheriff

Appellee

Appeal No. #

15-10015-D

Response and Brief in Support

The Notice of Docketing The C.o.A.

Reply to:

SCOTT O'NEAL, D/Bc

Phone Call This Office on 1-22-2015
from Law-Library SGT. M^c Kay.

Message was left. Approx. 9: A.M.

Respectfully Submitted,
David Britt Rose

91060191

2900 University Pkwy.

Lawrenceville, Ga.

22 January, 2015

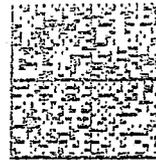
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David Britt

TATES COURT OF APPEALS

ELEVENTH CIRCUIT
OFFICE OF THE CLERK
56 FORSYTH STREET, N.W.
ATLANTA, GEORGIA 30303

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300



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*Sent to
CF on December 26th
to P.G. December 27th*

B-109-A

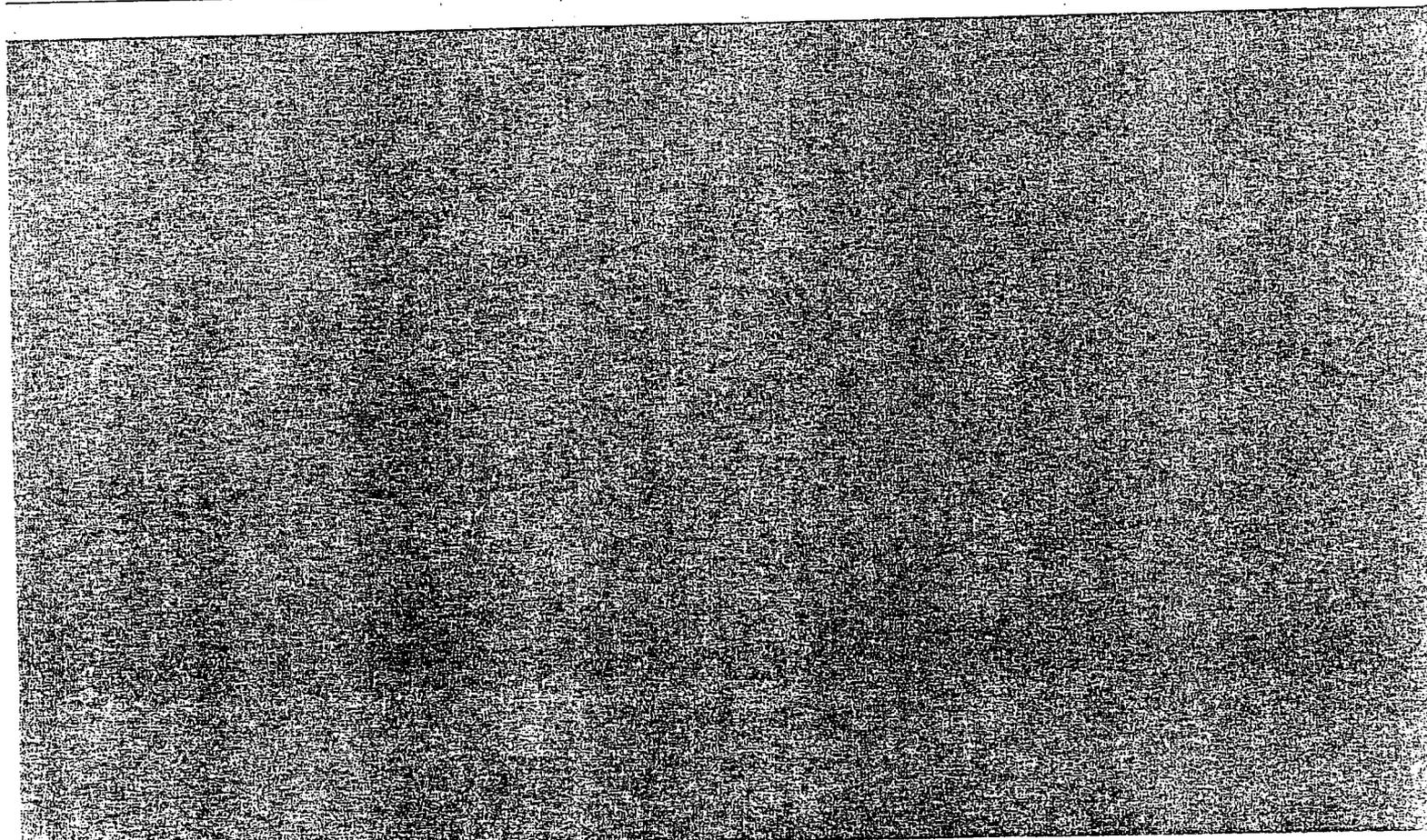
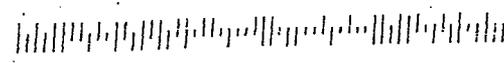
*No
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*Successful USC
Aff. 2244*

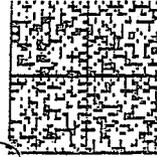
B-109-A

*Callahan Received
December 19th*

A



CLERK OF THE CLERK
DISTRICT COURT
STATE COURTHOUSE
SPRING STREET, S.W.
ATLANTA, GEORGIA 30303-3361
OFFICIAL BUSINESS



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Use
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on Friday 9^{AM} cameras on
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1-12-2015
Opened

Evening Watch
Order for GRANTED
Hole

14-715-A

See Back
Tape w/

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Guinnett County Sheriff's Department

R.L. (Butch) Conway, Sheriff
2900 University Parkway
Lawrenceville, GA. 30043
(770) 619-6500 Fax (770) 822-3115

Mike Boyd
Chief Deputy
Don Pinkard
Jail Administrator

INMATE NAME: BRITT, DAVID

ID NUMBER: 91060191

HOUSING UNIT: A-109-A

Items checked below were received for the above listed inmate:

<input type="checkbox"/> BIBLE	<input type="checkbox"/> BOOKS #
<input type="checkbox"/> MAGAZINES #	<input type="checkbox"/> EYE GLASSES
<input type="checkbox"/> CASE FOR GLASSES	<input type="checkbox"/> CONTACT LENS
<input type="checkbox"/> CONTACT SOLUTION	<input type="checkbox"/> SHOES

X OTHER PRO-SE MAIL
INMATE'S SIGNATURE IS REQUIRED FOR VERIFICATION THAT THE ABOVE
ITEM/ITEMS WERE ACCEPTED.

INMATE SIGNATURE: [Signature] DATE: 1-22-2015

ACCEPTED BY:
 SGT. D. McKay
 CPL. R. JOHNSON
 D/S J. Callahan JC 1/22/15
 D/S K. Strauss

D/S COMMENTS: 1- District Attorney Office (GJAC)
- Notice of Docketing 15-10015-D



Guinnett County Sheriff's Department

2900 University Parkway
Lawrenceville, GA. 30043
R.L. (Butch) Conway, Sheriff (770) 619-6500 Fax (770) 822-3115

Mike Boyd
Chief Deputy
Don Pinkard
Jail Administrator

INMATE NAME: BRITT, DAVID

ID NUMBER: 910601A1

HOUSING UNIT: A-108-A

Items checked below were received for the above listed inmate:

- | | |
|--|--|
| <input type="checkbox"/> BIBLE | <input type="checkbox"/> BOOKS # _____ |
| <input type="checkbox"/> MAGAZINES # _____ | <input type="checkbox"/> EYE GLASSES |
| <input type="checkbox"/> CASE FOR GLASSES | <input type="checkbox"/> CONTACT LENS |
| <input type="checkbox"/> CONTACT SOLUTION | <input type="checkbox"/> SHOES |

OTHER PRO-SE MAIL.
INMATE'S SIGNATURE IS REQUIRED FOR VERIFICATION THAT THE ABOVE ITEM/ITEMS WERE ACCEPTED.

INMATE SIGNATURE: David J. Britt DATE: 1-22-15

- ACCEPTED BY:
- SGT. D. McKay
 - CPL. R. JOHNSON
 - D/S J. Callahan JC 1/22/15
 - D/S K. Strauss

D/S COMMENTS: 3 - District Attorney's office (GJAC)

These had been returned with postage due but needed to get through Intergovernmental mail

Returned to COURT D.A.
TRANSCRIPTS
MISTRIAL
Sentencing
Probation Hearing
4-10-2014
7-18-2014

Certificate of Service

Appeal Number 15-10015-D

David Britt Pro-se Applicant in The Supreme Court of Georgia, Court of Appeals of Georgia, and United States District Court for the Eleventh Circuit have on this day January 22nd 2015 placed a "FINAL Submission" to the Supreme Court of Georgia in The Indigent Mailing process Gwinnett County Jail with copies to the following:

United States Court of Appeals
for The Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA. 30303

82
Pages Enclosed

Court of Appeals of Georgia
Suite 501
Trinity Avenue
Atlanta, GA. 30334

United States District
Court for the Northern
District of Georgia

All Party's served
Notice of Docketing
Response to
15-10015-D
11th Cir. Ct. of App.

Mr. Sam Oweas
Attorney General for The
State of Georgia
40 Capital Square
Atlanta, Ga. 30334

Respectfully Submitted,
David Britt Pro-se
91060191
Gwinnett County Jail
2900 University Pkwy.
Lawrenceville, Ga.
30043

James Bradley Smith, D.A.
Fiedmont Judicial Circuit
District Attorney's Office
5000 Jackson Parkway Suite 160
Jefferson GA. 30549

District Attorney's Office of
Gwinnett County
75 Langley Drive
Lawrenceville, GA. 30046

22 January, 2015
Jury Allen
Notary

United States Court of Appeals
for THE ELEVENTH Circuit

David Earl Britt
Appellant
vs.

Appeal Number

Butch Conway Sheriff
Appellee

15-10015-1)

Re: Response To Docketing Notice of The
22nd Day of January 2015, received
by Deputy Callahan Law-Library at the
Gwinnett County Jail, from The United
States Court of Appeals 11th Circuit.

Also Enclosed are Submissions that were
sent to both Courts of Appeals in this
State for a "Petition for Cert.", after
dismissing A15.D.0149 (see inside).

This Notice 15-10015-1) was received
on the date above as late and the Notarized
Certificate of Service with this Appeal
Number is the correct date received,
and all the Party's thereon are being served.

Respectfully Submitted
David Britt Pro-se
91060191

Notary

22 January, 2015

Gwinnett County Jail
2900 University Pkwy.
Lawrenceville, Ga. 30043

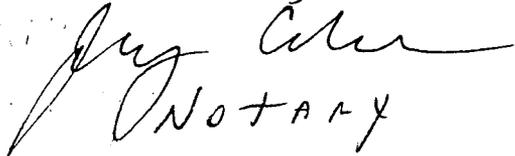
CERTIFICATE of SERVICE

DAVID BRITT Pro-se Applicant for C.O.A. 2244 have on this Day January 22nd 2015 Placed Submissions to The United States Court of Appeals for THE ELEVENTH Circuit in the U.S. Mail; INDIGENT STATUS; (Postage to be paid by this facility, Gwinnett County Jail, Due to Poverty and Pro-se Status), with Copy's to SAM OWENS, Attorney General for THE STATE of Georgia, AND The Supreme Court of Georgia, and Party's.

Respectfully Submitted,
David Britt Pro-se
91060191

Gwinnett County Jail
2900 University Pkwy.
Lawrenceville, GA.
30043

22 January, 2015


NOTARY

If you decide to file this form
Please send it to:

The United States District Court

If you are incarcerated:

You must attach a statement of your prison account which has been certified by the appropriate institutional officer showing all receipts and balances during the last 6 months

This form is required for submission

SEE RULE 24(A)(3)

AND PRISON ACCOUNT Balance Printout
IN THIS COURT FROM 11-14-2014
Submitted with Transcript.

David Britt
I.D.91060191
Gwinnett County Jail
2900 University Blvd.
Lawrenceville, GA 30043

***** ATTENTION *****

If you are a bar member in good standing with the Northern District of Georgia or a PHV attorney, electronic filing became mandatory for ALL attorneys effective July 15, 2005. Register now for an ECF userid and password. Please visit <http://www.gand.uscourts.gov> to sign up as an ECF user. You may also call 404-215-1600.

OCT. 29th 2014
C.O.A
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Phone Call
Supreme Ct.
MAIL NOT being
received And
Sent

U.S.

40

FILED IN CHAMBERS

U.S.C. - Atlanta

05 24 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

James A. Gramer, Clerk
Am... ..
Deputy Clerk

DAVID BRITT,
Petitioner,

: PRISONER HABEAS CORPUS
: 28 U.S.C. § 2254
:
:
:

v.

BUTCH CONWAY, Sheriff,
Respondent.

: CIVIL ACTION NO.
: 1:14-CV-2922-ODE-JFK
:
:
:

**ORDER ADOPTING MAGISTRATE JUDGE'S
FINAL REPORT AND RECOMMENDATION**

The matter is before the Court on Petitioner's 28 U.S.C. § 2254 petition [1] in which he challenges his December 2009 Gwinnett County convictions, the Magistrate Judge's Final Report and Recommendation (R&R) [3] that recommends dismissing this action, and Petitioner's objections [5].

In reviewing a Magistrate Judge's Report and Recommendation, the district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). "Parties filing objections to a magistrate's report and recommendation must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court." United States v. Schultz, 565 F.3d 1353, 1361 (11th Cir. 2009) (quoting Marsden v. Moore, 847 F.2d 1536, 1548

(11th Cir. 1988)) (internal quotation marks omitted). Absent objection, the district judge “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge,” 28 U.S.C. § 636(b)(1), and “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation,” Fed. R. Civ. P. 72, advisory committee note, 1983 Addition, Subdivision (b). “[T]he district court has broad discretion in reviewing a magistrate judge’s report and recommendation” – it “does not abuse its discretion by considering an argument that was not presented to the magistrate judge” and “has discretion to decline to consider a party’s argument when that argument was not first presented to the magistrate judge.” Williams v. McNeil, 557 F.3d 1287, 1290-92 (11th Cir. 2009).

I. Discussion

The Magistrate Judge found that Petitioner had already filed a federal habeas corpus petition challenging the same convictions that he challenges in this action,¹ that his prior petition had been denied, and that Petitioner’s failure to obtain authorization from the Eleventh Circuit Court of Appeals to bring a successive petition deprived this

Court at Appeals - AISD 0149
additions
514H162
was service made? 14-CR-9957
515D0187

¹ See Britt v. Terry, No. 1:11-CV-1034-ODE (N.D. Ga. June 29, 2012) (challenging December 2009 convictions in Gwinnett County criminal action 07B-4802-02).

2
released July 30 2012

Objections - Judge King - AS is Not Revoked yet.
Probation was AS is Not Revoked yet.
Cannot revoke / A void sentence / NOT Explained see Tax or ST.
Feasible
See Mistrial Transcript same
Case 07-B-4802-2
Same Judge Why didn't Judge check Sentence King and Ernie
Exceeded MAX Not Exposed until After BRITT vs Terry JULY 30, 2012

Court of jurisdiction over his current petition. (R&R at 2, ECF No. 3.)² The Magistrate Judge recommends that the petition and a Certificate of Appealability be denied.³ (Id. at 2-4.)

Petitioner objects on the grounds that he was incompetent when he filed his first federal habeas corpus petition.⁴ (Objections at 1, 4, ECF No. 5.) The Court is aware

² The Magistrate Judge (1) noted that Petitioner asserted that his guilty plea was unlawful because the consequences of Sex Offender Registration were not properly explained to him and, as part of that claim, discussed his recent arrest for a probation violation and (2) advised Petitioner that if he wished to challenge a probation revocation, he should not file a petition challenging his underlying conviction but should file a petition challenging his probation revocation. (R&R at 2-3, ECF No. 3.) In his objections, Petitioner confirms that his probation has not yet been revoked and that his "[c]onviction and sentence is exactly what this petition is refer[r]ing to." (Objections at 1, ECF No. 5.)

³ The Court shall dismiss this action for lack of jurisdiction. See United States v. Bailey, 514 F. App'x 835, 837 (11th Cir. 2013) (holding that successive petition should be dismissed and construing denial of petition as a dismissal).

⁴ Petitioner's reference to an indictment pending against him in Barrow County does not alter the result in this action. (See Objections at 2, ECF No. 5.) Petitioner also ambiguously states in his objections that a mistrial "had already" been granted in his criminal action 07B-4802-02 and that arguments are pending on the matter in the Georgia Supreme Court in appeal number S14H1622. (Objections at 2.) On review of the relevant state court dockets, discussed below, the Court finds no indication that Petitioner has been granted a mistrial in regard to his 2009 convictions or that he has been re-sentenced such that his current petition would not be successive. See Insignares v. Sec'y, Fla. Dep't of Corr., 755 F.3d 1273, 1281 (11th Cir. 2014) (holding that challenge to a new judgment is not second or successive).

See
AND
Check
CV-3440

Same Judges

King AND

Evans over MANY Cases
Here

For
Last
Case
Britt
vs.

of no exception to the requirement that a petitioner obtain authorization from the Eleventh Circuit Court of Appeals before filing a successive federal habeas corpus petition in this Court. See 28 U.S.C. § 2244(b)(3)(A) ("Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." (emphasis added)). Whether reviewing the Report and Recommendation de novo or for clear error, the Court agrees with the Magistrate Judge. The Court lacks jurisdiction to entertain Petitioner's successive petition.

QUESTIONABLE?
APPEALABLE?

No Appeal was filed on
BRITT vs JERRY

No service?
or
Heavily medicated

July 2, 2014
Supreme Ct.
Docket

The Georgia Supreme Court's docket for appeal number S14H1622 shows that Petitioner has pending a petition for review of state habeas petition 14-A-02909-2 filed in Gwinnett County. See <http://www.gasupreme.us> (follow "Search Docket" hyperlink, S14H1622) (last visited Oct. 22, 2014). The Gwinnett County docket for petition number 14-A-02909-2 shows that Petitioner has filed numerous "appeals" in his state habeas proceedings and that a hearing is scheduled for October 31, 2014. See <http://www.gwinnettcourts.net/casesearch> (follow "By Case Number" hyperlink, 14-A-02909-2) (last visited Oct. 22, 2014).

Hyperlink
not

Alert to
July 18
Same Case
TRANSCRIPT
Submitted
in Petitioner
Nov. 19, 2014
box of postage

Was Not
Taken To
Court

see also
TRANSCRIPT
JULY 18
47-12-3
5-6-41-142/43
9-14-52/53
OLGA
AND RECORDS

TRANSMITTING
AND RECORDS

DOE to CLERKS
Office not

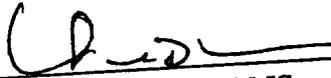
II. Conclusion

Accordingly,

IT IS ORDERED that Plaintiff's objections [5] are **OVERRULED** and that the Magistrate Judge's Final Report and Recommendation [3] is **ADOPTED** as the Order of the Court.

IT IS ORDERED that the petition [1] is **DISMISSED** for lack of jurisdiction and that a certificate of appealability is **DENIED**.

IT IS SO ORDERED this 24 day of October, 2014.



ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DAVID BRITT

Petitioner,

vs.

BUTCH CONWAY, Sheriff,

Respondent.

CIVIL ACTION FILE

NO. 1:14-cv-2922-ODE-JFK

Check Authority(s)

Constitution?

Justice

DAVID

NEHEMIAS

Supreme CT. of Georgia?

5 years U.S. Attorney?

JUDGMENT

This petition for a writ of habeas corpus having come before the court, Honorable Orinda D. Evans, United States District Judge, for consideration of the Magistrate Judge's report and recommendation, and the court having adopted said recommendation, it is

Ordered and Adjudged that the petition for a writ of habeas corpus be, and the same hereby is **dismissed** for a lack of jurisdiction and a certificate of appealability is **denied**.

Dated at Atlanta, Georgia, this 24th day of October, 2014.

JAMES N. HATTEN
CLERK OF COURT

By: s/Frances K. Pinckney
Deputy Clerk

NO Explanation

Prepared, Filed and Entered
in the Clerk's Office
October 27, 2014
James N. Hatten
Clerk of Court

By: s/Frances K. Pinckney
Deputy Clerk

COURT of Appeals of Georgia
Dismissed A15D0149
December 10th 2014

NEW
Additions
To
Britt vs. Terry

This was
also case
referred in
this court
Barrow Co.
14-CR-995-X