

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

October 5, 2015

To: Mr. Anthony D. Brown, GDC1000171604, Dooly State Prison, Post Office Box 750,
Unadilla, Georgia 31091

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals. The mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W., Suite 572, Atlanta, Georgia 30334.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____
_____ The remittitur issued on _____
divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is: _____
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- 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.

In the Court of Appeal the state of
Georgia

Anthony Deonte Brown

v
State of Georgia case 089584734

The Defendant comes now in the
above styled case and files this motions.

For appeal on the ground of withdrawn,
guilty on all charge. With offense of Armed
Robbery on 10th day of August 2008 the County
of Cobb.

As provide on the Ground
Unconstitutional under the record that no
rational trier of fact have found proof
or could have proof of guilt beyond reasonable
doubt.

On ground insufficient evidence under
priest v. State. It was no evidence to justify
a condition of the Conviction on defendant on
the ground of newly discovered evidence.
as follows essentials of an extraordinary
motion for a new trial.

As on providing withdraw plea, by defendant
Mr. Brown. Plea was not knowingly, voluntarily,
- and intelligently entered. Under Tomlin v. State
295 Ga. App 369 (2008).

In the Court of Appeal State of Georgia

As providing on the following withdraw plea.
by defendant.

Mc Dowell v. State 282 Ga App. 754, 755 (2006) and as provide it not freely and voluntarily entered the plea and (2) it was no understanding of the nature of the Charges against him and (3) an understanding of the consequences of the plea. (Footnote omitted.) Wilson, supra 302 Ga App. at 434. Under challenges the validity of his guilty plea by defendant. The Unorthodox nature of the plea occurred when defendant try to help his Brother go home, the most confounding and unusual plea agreement involved in any case; because the defendant did not understand his waiver of Right, and did not discuss the evidence the state had, of the case. The strength of that evidence, and the options available to the defendant, either a trial or by jury, not just a guilty plea; The Court has manifestly abused its discretion. Whitesides v. State 266 GA app. 18 (2004). Defendant entered into guilty plea with NO knowing of it, understanding of it. Defendant did not Armed Robbery no one at this time of Plea. As motion to withdraw his guilty plea, the defendant at time was not competent to tack the plea under Demurrers - special Demurrers.

In the Court of Appeal State of Georgia
As providing

A special demurrers raises an objection to the form of the indictment a defendant has been said to have a right to be tried on a indictment which is perfect in form and substance. Shepherd Construction Co. - as providing on the follow, defendant can show that he was prejudiced. Not being tried affected the ability of the defendant to present his defense. Defendant is attacking the form of the indictment rather than the substance defendant expressively reserves his right to arraignment, defendant is introduce evidence.

Plea is abate ment, this indictment was returned based solely on the testimony of that witness. On the ground of ineffective assistance of counsel - . The defendant is pointed out that in Polk County v. Dodson concerning the violation of the constitutional right that a defendant should be given an opportunity to be heard.

As providing on Notice - of appeal on ineffectiveness of counsel, defendant is raising this claim, this issue is being raised for the first time on appeal. Have not be fully informed of his rights defendant, in pander v. State, the court held that a challenge

The Court of Appeal state of Georgia

As provide on following on notice of appeal on ineffectiveness of Counsel

the counsels efficacy could be raised in an out of time appeal and demand for an evidentiary-hearing a rule nisi. Defendant enter guilty plea to an indictment charging because his counsel was unprofessional - in time of plea where there is a reasonable probability, that is a undermine confidence in the outcome. The result of the proceeding would have been differed - and it is no similar charges made against other.

As Strickland it to be, see Strickland 466 US at 694, 96 104 Sct. 2052 (repeatedly stating prejudice inquiry in aggregate terms of reasonable probability counsels errors affected outcome of proceeding); see Fisher 282 F. 3d at 1307-11 casing prejudice from counsels - devastating impact on the defendants 'defense'

it is just one or two of counsel failure, on all grand of counsel failure counsel failed to speak with many obvious potential witnesses.

Even a rudimentary investigation would have involved contacting. As provided Counsel failure to obtain the preliminary hearing transcript, this is just one more because

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As provided on following

if Counsel had not fell below acceptable levels of professionalism. The defendant show that this error would be an effect on the outcome of the proceeding. On grounds is a function of the prejudice flowing from all of counsels deficient performance

As on providing of Counsel failure:

On Counsel failure to investigate or Prepare
(1) Transcripts of previous testimony (2) Expert for defendant (3) Extraordinary efforts by counsel at plea hearing to elicit an admission of guilty from his client (4) Erroneous Advice to Induce Acceptance of Plea Agreement; Lying to the Defendant As to parole or probation (5) As to sentence to be imposed (6) Pushing into plea with investigation (7) Improper pressure on defendant to plead guilty (8) Plea urged by counsel for the sake of contingent plea agreement - for a Co-defendant. (9) Failure to advise defendant before plea. (10) Because Counsel was unprepared for trial (11) Informant witnesses self defense witnesses (12) Failure to correct presentation. use of false statistics, as providing on failure to establish or maintain

In the Court of Appeal State of Georgia As providing on counsel failure

the requisite confidential relationship with client. (14) failure to file motions. (15) failure to object to lack of corroborating evidence for a felony. (16) Advise on client to act against the interest of another. (17) Showed partiality to one defendant over another (18) worked against his client interests.

On all of counsel failure, come to a miscarriage of justice and prejudice, to defendant and harm. Under OCGA 9-14-48 process rights a *Valentuela v. Newsome* 253 Ga 793 495-797 (1985). Defendant may submit any evidence they believe support the disputed fact including affidavits and live testimony. Defendant has a right, the three Boykin Rights (1) The Privilege against self-incrimination at time of plea trial (The other two are a right to a jury trial and the right to confront ones accusers.) Defendant did not ARM Robbery no one. The evidence used to get a Conviction of ARMED ROBBERY was under insufficient evidence.

Travior v. State, challenged the conviction based on Carla. 284 GA 696 (2008).

In the Court of Appeal State of Georgia Defendant is arguing that there was no insufficient evidence of the asportation element of that crime. The state have no test to provide Circumstantial Evidence linking defendant to the scene. No gun, or no witness and there was no evidence that no one knowing defendant planned to rob no one or no store or home and it was no money on the defendant from the robing — this robing was by someone else other than defendant. It is no evidence that defendant commit the crime directly or when crime committed present. Just because defendant at the scene of the crime is not sufficient evidence to convict criminal intent.

Defendant was at the scene because he lives on the next street and that is not a crime and it is evidence sufficient to support a finding that defendant carried a concealed weapon at the time.

As providing on the following this negotiated plea can harm defendant long after the state sentence is served. Defendant is asks to modified in this case as plea agreements on grounds of other findings of fact and conclusion of law. Documents like police reports and transcript of plea, and complaint applications are not to be considered in determining the nature of a prior offense. Shepard v. United States. 544

In the Court of Appeal state of Georgia
As provided...

U.S. 1326 (2005) under Georgia new rules of evidence; Georgia has adopted new rules of evidence similar transaction evidence (which under the new rule is called independent crimes or acts) is admissible under O.C.G.A. See 24-4-404 to show proof or knowledge identity or absence of mistake or accident. Defendant argues that the evidence by the state of Georgia under the new rules: see

U.S. v. Spikes, 158 F.3d 913 929 6th Cir 1998). See U. States. v. Goodwin 429, F2d 1141, 1153 15th Cir 1974

Evidence may not be used to show plan to commit crimes. It was no similarities between defendant robber were insufficient)

At the scene of the crime No identification or evidence that defendant did the crime, it is a show that investigator's performance was deficient. performance ~~was~~ and requires showing that investigator made serious errors, by the sixth Amendment deficient performance was showed. This case involves serious issues and defendant is ask to withdraw guilty plea. Brown v. State defendant was misrepresented and on evidence by state of

In the Court of Appeal state of Georgia

Georgia, no response to defendant motions or letter seeking the appointment of Counsel to pursue his appeal, of the insufficient Evidence.

The evidence was insufficient to support the adjudications because they were based solely on hearsay, it was no eye witness, no photograph of defendant at the Crime scene.

The defendant establishing ineffectiveness, Haynes v. State on ground, 'out of time appeal' defendant right. was denied of appeal through Counsel negligence or ignorance and defendant was not adequately informed of his appeal right. This ensues strong evidence that the attorney was no longer sufficiently interested in the ~~practice~~ practice of law to adequately.

Solima v. United State 709 F. 2d 307
309 Mich Ct. App (1979).

Reasonably likely to render and rendering reasonable effective counsel/assistance, the defendant ask the Court of Appeal to look at the totality of the representation, and based upon trial errors by evaluating effectiveness. Court must look at counsel conduct within the wide range of reasonable

Professional assistance. Defendant have showing that Counsel made errors so serious that counsel was

In the Court of Appeal State of Georgia

As provided is about counsel not functioning as the counsel guaranteed, that defendant was prejudiced by action or inaction of his counsel and that there is reasonable probability that but for counsel's unprofessional errors the result of the proceeding it would have been different outcome and because of counsel and claim of the prejudice, demand a showing that counsel's errors were so serious to deprive the defendant of a fair trial. Whose result is reliable under *Hause v. Balkcom*. The ineffective assistance of counsel applies when defendant enters his guilty plea. *Brantley v. State* held that the two prong test of *Strickland* applies where defendant enters a guilty plea. The defendant would not have pleaded guilty and would have insisted on going to trial.

- (1) Defendant had a defense, which was not presented;
- (2) Investigation, it was no investigation in determining whether representation was inadequate a factual inquiry should be conducted to determine to investigate the fact and law and whether omissions charged resulted from inadequate preparation rather than unwise choices of strategy.

This was harmful to defendant, the failure to pursue those investigations when he was told to by

In the Court of Appeal State of Georgia
As providing

by defendant, on ground and claim and fact of Law. Proof of the law it was no evidence in this case could have found the defendant guilty of this crime. Omissions was clearly harmful and erroneous as a matter of law in that case — all come down to a miscarriage of justice upon defendant by counsel. Because every person is innocent until proved guilty and they did not prove it.

Failure to raise an Indicated Defense:

Duress and speedy trial lack of — intent and failure to interview: prosecution witness and self defense witnesses. The defendant is asked for equal protection of the law of the fourteenth AMENDMENT requires that no greater punishment be imposed on one defendant than on all others charged with like offenses a mere disparity, in sentences between parties charged with the same crime. Defendant is raise a constitutional question of the violations of defendant Right under fourteenth Amendment

Of Indigent — defendant is Claiming Indigent. Under 17-21-31 adequate defense services for indigent persons accused.

In the Court of Appeal State of Georgia
as provide on Claim and ground
of Crime and Guidelines to ensure that Indigent
defendant receive a fair trial, because it
is time for a change for defendant. That's
why he is asking to withdraw Guilty plea,
by law of Georgia. I here by certify that
on this day defendant filed the foregoing
with the clerk of court of Appeal of Georgia
I here by certify that I have mailed
by united state postal service the document
and a copy of the Notice to all.