

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

August 21, 2015

To: Mr. Timothy Brown, GDC603963 G-2 240B, Washington State Prison, Post Office  
Box 206, Davisboro, Georgia 31018

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 current case pending in the Court of Appeals of Georgia under your name.**

**I have enclosed a complimentary copy of the opinion in A07A0854. Timothy Laverne Brown v. The State which was affirmed on August 16, 2007. The remittitur issued on September 17, 2007, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

**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 \_\_\_\_\_ 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.

DEAR, CLERK

PLEASE NOTIFY ME IF ANY ACTION FROM THIS PETITION  
FOR A WRIT OF CERTIORARI IS TAKEN OR IF ANY ORDER IS  
ISSUED THANK YOU.

TIMOTHY BROWN #603963  
WASHINGTON STATE PRISON G-2 240B  
P.O. BOX 206  
Davisboro, Ga. 31018

RECEIVED IN CLERK'S  
2015 AUG 20 PM 2:38  
CLERK OF SUPERIOR COURT  
COURT OF APPEALS OF GA.

IN THE COURT OF APPEALS  
STATE OF GEORGIA

TIMOTHY LAVERN BROWN,

CASE NO: 87-2000CR1100

VS.

STATE OF GEORGIA,

PETITION FOR A WRIT OF CERTIORARI

RECEIVED IN OFFICE  
2015 AUG 28 AM 2:38  
CLERK OF SUPERIOR COURT  
COLUMBIA COUNTY, GEORGIA

THE DEFENDANT CLAIMS THAT IN SEPTEMBER TERM, 2000 COLUMBIA COUNTY SUPERIOR COURT, RENDERED DECEMBER 5, 2000 AND RETURNED IN OPEN COURT ON DECEMBER 6, 2000, INDICTMENT NO. # 87-2000-CR1100 SAID INDICTMENT AGAINST TIMOTHY LAVERN BROWN IN JUDGE CARL C. BROWN'S COURTROOM IN COLUMBIA COUNTY COURTHOUSE AT 12:28 P.M.

PLAINTIFF (BROWN) ALLEGING THAT THE INDICTMENT WAS NOT RETURNED INTO OPEN COURT, UNDER ZUGAR V. STATE, 194 Ga. 285, 21 S.E.2d 647, .

PLAINTIFF (BROWN) PETITION FOR A WRIT OF CERTIORARI TO DIRECT THE SUPERIOR COURT TO DELIVER THE MINUTES OF PROCEEDINGS ON DECEMBER 6<sup>th</sup>, 2000.

PLAINTIFF (BROWN) CLAIMED THAT THE GRAND JURY'S BAILIFF FAILED TO PRESENT THE INDICTMENT INTO OPEN COURT BEFORE THE JUDGE, UNDER STATE V. BROWN, 293 Ga. 493, 748 S.E.2d 376 (2013). PLAINTIFF ALLEGED THAT THE RECORDS FINAL MINUTES SHOW THAT RECESS WAS TAKEN AT 4:20 P.M. IN THE SEPTEMBER TERM OF 2000, THERE IS NO RECORD OF THAT PROCEEDING RECONVENING FOR THAT DAY.

GEORGIA RULE IS AN INDICTMENT MUST BE RETURNED INTO OPEN COURT. A BAILIFF MAY BE LEGALLY SUBSTITUTED FOR THE MEMBERS OF THE JURY IN COMPLYING WITH THE RULE; TO RENDER AN INDICTMENT VALID IN GEORGIA, IT MUST BE RETURNED BY THE GRAND JURY OR THE SWORN BAILIFF TO THE GRAND JURY INTO OPEN COURT, AND SUCH RETURN MUST BE ENTERED BY THE CLERK UPON THE MINUTES OF THE COURT AS PART OF THE PROCEEDINGS OF THAT COURT. "THE COURT ONLY SHOWS THAT RECESS WAS TAKEN AT 4:20 P.M. AND NEVER RECONVEN FOR THAT DAY" THEIR IS NO RECORD TO SHOW THAT INDICTMENT NO. 87-2000CR1100 WAS RETURNED INTO OPEN COURT. THE LAW IN GEORGIA IS THAT BEFORE A PARTY CAN BE TRIED ON AN INDICTMENT, IT MUST APPEAR FROM THE RECORD THAT IT RETURNED INTO OPEN COURT.

WHEREFORE, PLAINTIFF (BROWN) PRAYS THAT THIS PETITION FOR A WRIT OF CERTIORARI BE GRANTED AND DIRECT THE SUPERIOR COURT TO DELIVER THE RECORDS OF THE MINUTES OF THE COURT PROCEEDINGS ON DECEMBER 6<sup>th</sup>, 2000 FOR REVIEW, AND IF RECORDS ARE NOT PRODUCED; PLAINTIFF REQUEST THIS COURT TO QUASH SAID INDICTMENT NUMBER 87-2000CR1100 AND IMMEDIATE RELEASE BE GRANTED.

THIS 17 DAY OF August, 2015

  
TIMOTHY LAVERN BROWN

CERTIFICATE OF SERVICE

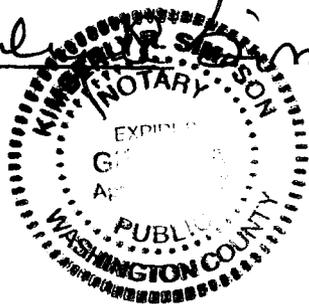
THIS IS TO CERTIFY THAT I HAVE THIS DAY MAILED A COPY OF THE FOREGOING PETITION FOR A WRIT OF CERTIORARI TO RESPONDENT BY MAILING A COPY THEREOF VIA UNITED STATES REGULAR MAIL, IN AN ENVELOPE PROPERLY ADDRESSED WITH ADEQUATE POSTAGE, TO:

CHIEF JUDGE  
GARY B. ANDREWS  
47 TRINITY AVENUE, SUITE 501  
ATLANTA, GEORGIA 30334

THIS 17th DAY OF AUGUST, 2015

Timothy L. Brown  
Timothy L. Brown  
Washington State Prison  
P.O. Box 206  
Davisboro, Ga. 31018

Kimberly S. Simpson  
Notary



**FIRST DIVISION  
ANDREWS, P. J.,  
ELLINGTON and ADAMS, JJ.**

**NOTICE: Motions for reconsideration must be physically received in our clerk's office within ten days of the date of decision to be deemed timely filed. (Court of Appeals Rules 4 and 37, September 5, 2002)  
<http://www.gaappeals.us/rules/>**

**August 16, 2007**

**NOT TO BE OFFICIALLY  
REPORTED**

**In the Court of Appeals of Georgia**

**A07A0854. BROWN v. THE STATE.**

**ELLINGTON, Judge.**

A Columbia County jury found Timothy Laverne Brown guilty beyond a reasonable doubt of false imprisonment, OCGA § 16-5-41 (a); rape, OCGA § 16-6-1 (a); two counts of child molestation, OCGA § 16-6-4 (a); and enticing a child for indecent purposes, OCGA § 16-6-5 (a). Brown appeals, challenging the sufficiency of the evidence and raising various other claims. For the reasons that follow, we affirm.

1. When reviewing the sufficiency of the evidence, we construe the evidence in the light most favorable to the jury's verdict. *Duvall v. State*, 273 Ga. App. 143 (1) (614 SE2d 234) (2005). We do not weigh the evidence or resolve issues of witness