



## Court of Appeals of Georgia

February 2, 2015

TO: Mr. Wilson Carstaffin, Jr., GDC1000684628, Long State Prison, PO Box 70, Ludowici, Georgia 31316

RE: **A13A0417. Wilson Carstaffin, Jr. v. The State**

### CHECK RETURN

- Your check number \_\_\_\_\_ in the amount of \_\_\_\_\_ written on the account of your firm for the filing fee in \_\_\_\_\_ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by \_\_\_\_\_.

### ~~CASE STATUS - DISPOSED~~

- The referenced appeal was affirmed on May 29, 2013. The remittitur issued on January 23, 2014, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

### CASE STATUS - PENDING

- The above referenced appeal is pending in your name before this Court. The appeal was docketed in the \_\_\_\_\_ Term and a decision must be rendered by the Court by the end of the \_\_\_\_\_ Term which ends on \_\_\_\_\_.

### APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

In the Georgia Court of Appeals

State of Georgia, : Indictment No.  
v. : O55C04719  
Wilson Carstaffin, Jr., :  
Appellant. :

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Motion for Reconsideration

Comes now the appellant requesting that this court reconsider its order dated January 08, 2015. The order stated that my case status was "disposed," "final," and that this court lacked any further jurisdiction in this case. This court also made reference that this motion was affirmed on May 29, 2013. Appellate would like to point out to this court that this is a new issue that has not been previously ruled on by this court. After the appellant's direct appeal, appellate filed a motion to Reduce Sentence with the sentencing court pursuant to Ga. Ann Code Ann. § 17-10-1(b). The sentencing court stated that it lacked the jurisdiction to consider my motion because too much time had elapsed between my sentencing date and the date of my motion to reduce sentence. This is the basis of appellant's motion to this court. Appellant argues that the before mentioned code gives the sentencing court jurisdiction to modify or reduce a sentence that is outside of the term of the court that entered the judgement.

Appellant makes the following argument in support...

Statement

Since 2001, Georgia's motion to reduce sentence postconviction remedy

has been authorized by a statute which also enlarges ~~the time frame~~ within which a sentence may be reduced. This statute is Ga. Code Ann. § 17-10-1(f), enacted by the Act of Mar. 27, 2001 § 5, 2001 Ga. Laws 94, 97 to 98.

Thus, under Ga. Code Ann. § 17-10-1(f) a Georgia sentencing court now has the power to reduce a sentence one year after imposition of sentence, or 120 days after receipt by the sentencing court of the remittitur upon affirmance of the judgement after direct appeal, whichever is later. No longer is the power of a Georgia sentencing court to reduce a sentence linked to the term of court which the judgement is entered.

Bradberry v. State, 315 Ga. App. 434, 727 S.E. 2d 208 (2012), cert. denied, (Oct. 15, 2012) (Bradberry family filed a motion for sentence modification within 120 days of sentencing court receipt of the remittitur, Ga. Ann. § 17-10-1(f); the denial of a family motion to modify under this statute may be subject to a direct appeal.) also see Bradberry v. State, 315 Ga. App. 434, 727 S.E. 2d 208 (2012). Jones v. State, 278 Ga. 669, 604 S.E. 2d 483 (2004) (Under Ga. Code Ann. § 17-10-1(f), a sentencing court has the jurisdiction, power and authority to modify a sentence within one year of the date upon which the sentence is imposed, or within 120 days after receipt by the sentencing court of the remittitur upon affirmance of the judgement after direct appeal, whichever is later).

This Court stated under Case Status - Disposed that the remittitur was issued from this court on January 23, 2014. Appellant's Motion to Reduce Sentence was filed with the sentencing court on February 19, 2014. Appellant argues that he <sup>was</sup> within 120 days after receipt by the sentencing court of the remittitur upon affirmance of the judgement after direct appeal and that the sentencing court erred in concluding that it lacked the jurisdiction.

Appellant is asking that this court please rectify this matter.

Respectfully Submitted this 26<sup>th</sup> day of January, 2015

lcl

Wilson Carstaffen, Jr., pro se

W000684628

Long State Prison

P.O. Box 70

Ludowici, GA 31316