



Court of Appeals of Georgia

March 2, 2015

TO: Mr. Ife Chatman, GDC1219992, Lee Arrendale State Prison, Post Office Box 709, Alto, Georgia 30510

RE: **A14A1166. Ife S. Chatman 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 September 22, 2014. The remittitur issued on October 9, 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.

Mr. Castlen

If I am addressing the wrong court
can you please point me in the right direction,
because I have done all I know to do, in this
matter.

Thank you so much

ife chat

Ife Chatman 1219992

P.O. Box 709

ALTO GA 30510

RECEIVED IN COURT
2015 FEB 26 AM 3:11
CLERK OF SUPERIOR COURT
DOCKET CLERK, ALTO, GA

IN THE SUPERIOR COURT OF Douglas COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

PLAINTIFF

VS.

Ife S. Chatman
DEFENDANT

CASE NUMBER: 12CR681-A

NATURE OR OFFENSE:

I.D. Fraud

MOTION TO CORRECT CLERICAL ERROR on Final
Disposition

COMES NOW, Ife Chatman Defendant in the above-styled
action, pursuant to O.C.G.A. § 9-11-60 (g), and moves this Honorable Court to:

1.

See Attachments

2.

See Attachments

3.

See Attachments

4.

See Attachments

5.

See Attachments

6.

See Attachments

Respectfully submitted, his 20 day of Feb, 20 15.

[Signature]
Defendant, Pro Se

Sworn to and subscribed before me, kw
this 20 day of February, 2015

Karen Wilbanks
NOTARY PUBLIC

8/25/17
My Commission Expires

CERTIFICATE OF SERVICE

This is to certify that I have, on this day, submitted complete and correct copies of the foregoing document(s) upon the parties listed below, by placing same in the United States mail, with sufficient postage affixed thereto.

This 20 day of Feb, 20 15.

[Signature]
Defendant/Pro Se

Parties Served:

Clerk Steve Casten
@ Court of Appeals of Georgia
47 Trinity Ave #501
Atlanta Ga 30334

Clerk Tammy Howard
@ Douglas County
8700 Hospital Dr.
Douglasville Ga 30134

Ife Chatman 1219992
Lee Arrendale State Prison
P.O. Box 709
Atlanta Ga 30510

Attachments.

1.

The defendant is requesting "credit for time served" in the amount of 294 days. In June 2011, she sat in the Douglas County jail for 22 days, before making bond. On October 17, 2012, the remainder of her probation was revoked (7 yrs) and she was remanded to State custody. On July 28, 2013, she returned to Douglas County (from prison) and received a 7yr. concurrent sentence. After sentencing, she received a notice from D.O.C. reflecting her 7yr. concurrent sentence, with adjustments only from the period of her county confinement of July 28, 2013 - October 2013, reflected on the Affidavit. The D.O.C. gave no credit for the time served in State custody, before her county detention, a period of approximately 9 months (272 days). And the county jail gave no credit for the 22 days, from the date of arrest until bond. A total of 294 days.

2.

On November 21, 2014, the defendant filed a "Motion to Correct Clerical Error or Withdraw Plead", citing O.C.G.A. § 17-10-1 . . . as a sentencing court has power to modify a valid sentence only during the term of court in which it was imposed or for up to one year (or 120 days after affirmance following appeal). On October 9, 2014, the official notice of remittur was transmitted to the trial court.

3.

On November 26, 2014, the trial court denied the motion and sent an "order" which stated that they had entered a 7yr. concurrent sentence to any sentence she was currently

serving and according to O.C.G.A. 17-10-12 D.O.C has the duty to award credit and not the trial court.

But an exception exists however, "where the trial court in its written sentencing order gives gratuitous misdirection to the correctional custodians "because a judge (trial) has no authority to interfere with the administrative duties of the correctional custodians and the D.O.C. to determine and award credit for time served.

The remedy in such a case is to "remand the case to the trial court to strike the offending language from the sentencing order". See Johnson v. State (the trial court has no authority to take sentencing credit away).

4.

"The clear policy behind OCGA § 17-10-9 through 17-10-12 is that time spent in incarceration under the authority of this State or a political subdivision thereof should count toward the time which a person must serve. See Cochran v. State 315 Ga 488; January 31, 2012.

5.

According to Westlaw 2013 § 7:9 Custody and Sentencing - Concurrent Sentences. A petitioner serving concurrent sentences is considered to be "in custody" on the convictions for the longest of the concurrent sentences imposed. The defendant has been "in custody" since October 17, 2012 (docket number 07CR1183). Docket number 12CR681-A was ran concurrent on September 30, 2013. The defendant is seeking the adjustment of 294 days.

6.

According to Daniel's Georgia Criminal Trial Practice (2008-2009 Edition) §26-43 Motion for reduction or correct sentence - Felony cases: Prior to 2001, a trial judge only had authority to reduce a sentence if the defendant filed a motion for reduction at the same court as that of which the defendant was sentenced. Since that time, the relevant Code section has been amended to provide the trial judge authority to reduce a sentence "within one year of the date upon which the sentence was imposed or within 120 days after receipt by the sentencing court of the remittur upon affirmance of the judgement after direct appeal, whichever is later. OCGA § 17-10-1(f).

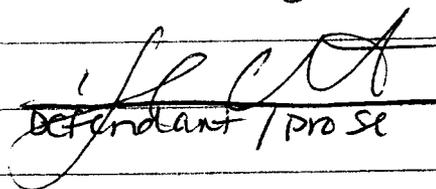
The receipt of the remittur was October 9th, 2014.

120 days from that date was Friday, February 6, 2015.

The defendant has filed numerous motions to correct clerical error and adjust/alter/resentence or withdraw plea, before the expiration of the 120 days following direct appeal, along with a court production order.

The defendant is seeking the adjustment of 294 days.

Respectfully Submitted,


Defendant / pro se

7.

On September 30, 2013, the defendant entered into a negotiated plea, which was contingent upon the "promise" that her max release date would remain the same, once the 1 year concurrent sentence was accepted. However, she received a notice (Sentence Computation Report) from the D.O.C which did not reflect the agreement due to the language or lack thereof on her affidavit of custodian. The defendant was not given credit for her time in "state custody", approximately 9 months (272 days). When the defendant addressed the trial court (October 2013), they responded "that because she was in "direct appeal", the court, at that time, lacked jurisdiction."

On December 30, 2014, the defendant filed a "Motion to Order Specific Performance of the Plea Agreement or Withdraw Plea", citing "A defendant who alleges that the government breached a plea agreement may be entitled to an evidentiary hearing, or at the court's discretion, discovery or expansion of the record. ¹³²⁸ if the defendant demonstrates that the government breached the agreement, the court may allow withdrawal of the plea, alter the sentence or order specific performance of the agreement.

U.S. v. McQueen, 108 F.3d 64, 66 (4th Cir 1997).

Government breached plea agreement by failing to honor obligations and by claiming it did not remember what it promised.

9.

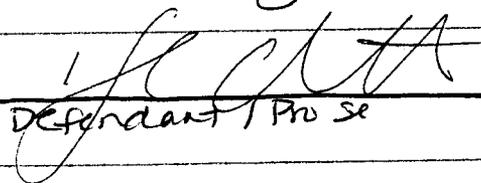
The defendant signed documentation in the presence of counsel Ricky L. Richardson which reflected the max release date of 11/30/2019. It was again verified and agreed upon at "Sentencing" with Assistant Lynn Volkner (District Attorney) and entered by Judge McClain. However, it continues to remain a "clerical error" at this time.

10.

Article 1. Bill of Rights. Section 1. Rights of Persons. The fundamental idea of "due process of law" is that of "notice" and "hearing". The defendant has filed "notices" (motions; orders) and requested "hearings", from October 2014 - February 2015. Douglas County has only responded once on November 26, 2014 stating that it is the duty of D.O.C. to award credit. NO other "notice", "motion" or "order" has been responded to since that time.

The defendant has diligently pursued her rights to avoid the issue of equitable tolling.

Respectfully Submitted


Defendant / Pro Se