

Trent D. Clemens
GDC # 734876
Dooly State Prison
P.O. Box 750
Unadilla, GA 31091

RECEIVED IN OFFICE
2015 JUN 11 PM 2:20
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

File

June 2, 2015

Stephen E. Castlen, Clerk
Court of Appeals of Georgia
47 Trinity Ave., Ste. #501
Atlanta, GA 30334

Subj: Denial of Access to Court of Appeals of Georgia

Dear Clerk Castlen:

I write you to inform of a situation I am experiencing at the hands of Teresa Harper, Superior Court Clerk in Upson County that, in effect, abrogates the authority of the Court of Appeals of Georgia to review an appeal sought by me over a serious matter involved in the conviction/sentence found in Upson County Case No. 2006-R-105.

Through the enclosed correspondence you will glean that 1.) I timely and properly filed a notice of appeal in response to the reading and denial of my "Motion to Void Sentence"; 2.) A letter from said clerk stating her mistaken belief of the absence on the transcript of the case as the reason for not submitting the case file to your office in the time required by rules of court and/or law; and 3.) a letter from the same clerk admitting her misunderstanding with what was available or asked to be submitted to your office for the appeal to be heard.

Also enclosed you will find my last response to her attempt to pass the burden of the delayed transmittal of the case file onto me through her request to me to file an – obviously – tardy amended notice of appeal.

The clerk's acts and inaction have now delayed justice which I believe is due to me or, at the very least, denies the public an opportunity for clearer understanding on a matter that concerns it and needs the review of the instant appellate court.

I am unsure if you can or have the authority to intervene in this matter. But the original Notice of Appeal germane to the bespoke Motion to Void Illegal Sentence properly invoked the jurisdiction of the court of Appeals of Georgia and that jurisdiction is being usurped by Clerk Teresa Harper.

If you or the appellate court is powerless to correct Mrs. Harper's clear slights to your office and the administration of Justice by the Appellate court, then at least this mailing will serve the record of the state as my attempt to show that I have not slept on

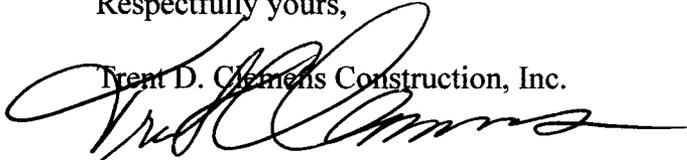
the conundrum and my right to access and appeal to a higher court on an issue that affects me and potentially numerous others in the public.

I pray that you will look over the materials attached to this writing and take the necessary steps to assist me in any way that you can, post-haste.

I wish to thank you in advance for all of the effort that you will put forth in response to this letter and situation, therefore, I am.

Respectfully yours,

Trent D. Clemens Construction, Inc.

A handwritten signature in black ink, appearing to read "Trent D. Clemens", written over the typed name.

Enclose: Order, Sept 8, 2014;
Correspondence, Oct. 24, 2015;
Correspondence, Dec. 23, 2014
Correspondence, Jan 6, 2015
Correspondence, Jan 21, 2015
Correspondence, Mar 6, 2015
Correspondence, April 13, 2015
Correspondence, Apr 16, 2015

...CATE

IN THE SUPERIOR COURT OF UPSON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

CASE NUMBER: 2006R-105

TRENT CLEMENS,

Defendant.

ORDER

After receipt and review of Defendant's "Notice of Intent to File Motion to Void Illegal Sentence" and Defendant's "Motion to Void Illegal Sentence" filed September 2, 2014, as well as the accompanying Rule Nisi and proposed Order, the Court, without need for oral argument, orders that Defendant's "Motion to Void Illegal Sentence" is denied.

SO ORDERED this 8 day of September, 2014.


CHRISTOPHER C. EDWARDS
Judge, Superior Court
Griffin Judicial Circuit

CERTIFICATE OF SERVICE

This is to certify that I have distributed a copy of the foregoing Order on the following counsel and pro se party of record by depositing a copy of same in the U. S. Mail with adequate postage thereon addressed as follows:

Office of the Upson County District Attorney
P. O. Box 871
Thomaston, Georgia 30286

Trent Clemens
GDC# 734876
Dooly State Prison
P. O. Box 750
Unadilla, Georgia 31091-0750

This 9th day of September, 2014.



KAYE L. MROZINSKI
Judicial Assistant to Judge Edwards

October 24, 2014

Trent Clemens
#734876
Dooly S.P.
P.O. Box 750
Unadilla, GA 31091

Office of the Clerk
Court of Appeals of Georgia
40 Mitchell Street
Atlanta, GA 30334

Subj: Docket Status,
Re: Appeal of Motion to Void Illegal Sentence

Dear Honorable Clerk:

Please will you look into the above-mentioned matter and notify me of anything that may be the cause of why I haven't received any notice of the docketing of said appeal.

I did properly and timely serve notice of my intent to appeal the issue upon the opposing party and filed the same in the Superior Court Clerk's office so I am at a loss as to why the matter has not been acknowledged by your court.

Any assistance you can offer in this endeavor will be greatly appreciated.

Most Respectfully, I am



Trent Clemens

Encl: Notice of Appeal

C: file

IN THE SUPERIOR COURT OF UPSON COUNTY

STATE OF GEORGIA

FILED & RECORDED
SUPERIOR COURT CLERK'S OFFICE
UPSON COUNTY, GA 30286
Date/Time: 9-20-14 @ 11:44 AM

TERESA HARPER, CSC

Trent Clemens
(Appellant)

Vs.

STATE OF GEORGIA
(Appellee)

*
*
*
* Case No: 2006-R-105
*(Re:Motion to Void Illegal Sentence)
*

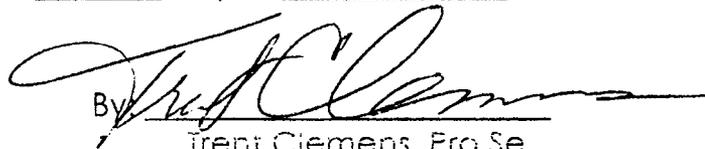
NOTICE OF APPEAL

Comes now Trent Clemens, the appellant in the above styled matter, and hereby gives notice of his intent to appeal from the order entered into the record of the case on September 8, 2014, denying his MOTION TO VOID ILLEGAL SENTENCE.

The Court of Appeals of Georgia, rather than the Supreme Court of Georgia, has proper jurisdiction over this matter as this is an appeal from the final judgment of a Georgia Superior Court in a non-capitol felony case. Jurisdiction of this category of appeal is conferred upon the State Court of Appeals under Article VI, Section V, Paragraph III of the Georgia Constitution of 1983.

Will the clerk properly prepare and transmit the entire case file and transcript to the appropriate official so that he may proceed on appeal. Please be advised that Mr. Clemens' status and authorization to travel as an indigent defendant is on record with this court.

Respectfully Submitted This 18 day of SEPT., 2014.

By 

Trent Clemens, Pro Se
#0000734876
Dooly State Prison
P.O. Box 750
Unadilla, GA 31091

IN THE SUPERIOR COURT OF UPSON COUNTY
STATE OF GEORGIA

Trent Clemens
(Appellant)
Vs.
STATE OF GEORGIA
(Appellee)

*
*
*
* Case No: 2006-R-105
*(Re: Motion to Void Illegal Sentence)
*

CERTIFICATE OF SERVICE

I, the undersigned individual, under the penalty of perjury, hereby attest and certify that I have served copies of the copies foregoing and attached NOTICE OF APPEAL by depositing said copies into the custody of the U.S. Postal Service in properly addressed envelopes, with sufficient postage affixed thereon for 1st class service, for delivery on:

1. OFFICE OF THE DISTRICT ATTORNEY, Upson County, P.O. Box 871, Thomaston, GA 30286.
- *2. OFFICE OF THE CLERK OF SUPERIOR COURT, Upson County, P.O. Box 469, Thomaston, GA 30286.

Properly Served This 19 day of SEPT., 2014.

By: 

Brent Clemens
3844 Lower Tanners Bridge Road
Monroe, GA 30656

Trent Clemens
GDC # 734876
Dooly S.P.
P.O. Box 750
Unadilla, GA 31091

December 23, 2014

Mallory and Trice
Attorneys at Law
For Upson County Georgia
300 West Gordon Street
Thomaston, GA 30286-0832

Re: Petition for Writ of Mandamus, Notice of Intent

Dear Sir or Madame:

On September 19, 2014, my proper timely Notice of Appeal from the denial of my Motion to Void Illegal Sentence (an independently appealable pleading – Please look into the following cases: Barber v. State, 240 Ga. App. 156, 552 S.e.2d528 (1999) and Marshall v. State, Ga. App. 282, 282-283 (668 S.E. 2d 892) (2008)) was submitted to the office of Teresa Harper – The Clerk of Upson County Superior Courts.

That Clerk's office filed said Notice of Appeal on September 26, 2014. (*See Enclosures*)

However, to date, Mrs. Harper has not transmitted the case file to the appropriate appellate court per her legal duty in such situation and her acts or inaction represent her denial of the right to an appeal on the matter as provided by the Federal and State Constitutions.

I concede that, normally, Mrs. Harper and her office has been exceedingly courteous and diligent about past communications and requests from me but, for some inexplicable reason, has –either willfully or through a callous disregard—failed in the fulfillment of her duty in this situation.

I have previously requested an excuse from Clerk Harper for her failure to transmit the case file but she now, seemingly, refuses to communicate with me on the matter.

Regretfully therefore I am now forced to consider filing a petition for a Writ of Mandamus to compel her to perform her legal obligation and cease her abrogation of my entitlement to an appeal of the bespoke pleading.

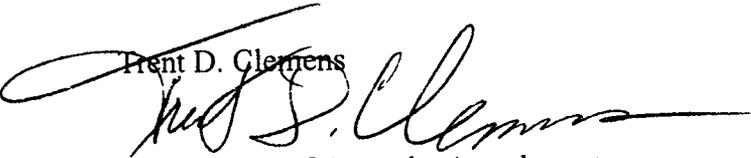
Should Clerk Harper wish to avoid such suit, I ask that, within *seven (7) business days* after receipt of this mailing, written confirmation of the transmission of said case file to the Court of Appeals of Georgia be given to me or a writing giving her anticipated

date of such transmittal, if some hindrance exists (*Detail of the hindrances is also expected*).

If Mrs. Harper either fails to respond or declines to transmit the case file in question, then let this letter stand as my notice of intent to file a petition for a Writ of Mandamus against her no later than *January 31, 2015*. An act I truly wish to avoid. (*See - O.C.G.A. §9-6-20*)

I greatly look forward towards the willingness and concerted effort for a swift, and less embarrassing, resolution of this matter; therefore, I am.

Frent D. Clemens



Encl: Notice of Appeal w/attachments,
Re: Motion to Void Illegal Sentence

Cc: File;
Teresa Harper
Upson County Superior courts
P.O. Box 469
Thomaston, GA 30286

Office of
Teresa Harper
Clerk of Superior Court
Upson County, Georgia

P.O. Box 469
Thomaston, Georgia 30286

Telephone (706) 647-7835
Fax (706) 647-8999

January 6, 2015

Trent Clemens
GDC #734876
Dooly S.P.
P.O. Box 750
Unadilla, Ga. 31091

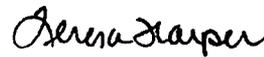
RE: Transmittal of Appeal Record,

Dear Mr. Clemens,

I have received a copy of your letter regarding Notice of Intent to file a Petition for Writ of Mandamus for not transmitting your appeal record to the Court of Appeals. According to the Notice of Appeal that you filed on September 26, 2014, you specifically requested that the entire record along with the transcript be sent to Court of Appeals. As of this date, the transcript has not been received, therefore I cannot transmit the record until I receive the transcript.

Please let me know if you have any questions.

Sincerely,



Teresa Harper
Clerk of Superior Court
Upson County, Georgia

Trent Clemens
GDC #734876
Dooly State Prison
P.O. Box 750
Unadilla, GA 31091-0750

January 21, 2015

Honorable Teresa Harper
Clerk of Superior Court
of Upson County, Georgia
P.O. Box 469
Thomaston, GA 30286-0469

Re: Transmittal of Appeal Record;
Re: Motion to Void Illegal Sentence

Dear Mrs. Harper:

On January 8, 2015, I received your letter in response to my notice of intent to petition for a Writ of Mandamus for your failure to transmit the appeal record to the Georgia Court of Appeals after receipt of my timely Notice of Appeal to the denial of my above-referenced pleading.

For the below-given reasons, I am quite *unpersuaded* by your excuse that the appeal record has not been transmitted because of the absence of the transcript of the case.

The responsible Court Reporter prepared the transcript on February 18, 2008 and provided copies to the Clerk's Office for distribution to the enjoined parties which, shortly thereafter, was done by your office.

As part of the first two attempts at Direct Appeal of the conviction with my (then) attorney, Elizabeth Lane, your office *did* transmit the appeal record, which included the transcript. This fact was noted on an index enclosed with the appeal record on the final attempt at Direct Appeal (*See last entry on enclosure*) and issued to me after I made a request for the same some time ago.

Therefore, your own office issued documentary evidence that *proves* that your office possessed and exercised control over the transcript at various times in the past.

As you may be aware, Georgia Law requires that the transcript remains a part of the permanent record of the state, thus, you should have easy access to the same due to your proximity to other actors whom maintain control over a true copy of the transcript.

That said, it would be a minor thing for you, to obtain an additional copy from the applicable court reporter if the original your office clearly had is in fact, lost.

Without waiving any rights, withdrawing, abridging or amending my Notice of Appeal related to the Motion to Void Illegal Sentence, and so as to mitigate the already lengthy delay of the appeal of the contested issue raised therein, please will you be so kind as to submit the entire case file to the Court of Appeals, including a notation to said court of your office's neglectfulness with mislaying/losing the transcript and giving your intent to secure a copy of the transcript from the court reporter which will promptly be transmitted to the Appellate Court after your receipt of the document.

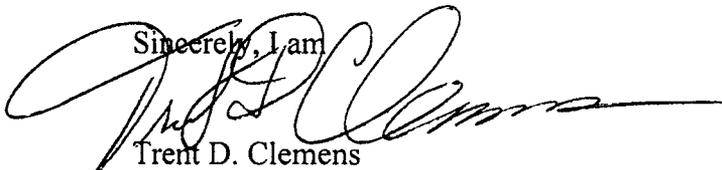
What is more, and to assist the Georgia Court of Appeals in the administration of Justice in this matter, secure copies of the sentencing-phase portion of the transcript (*pages 170-171 of the transcript*), have the applicable court reporter certify the same, and submit that along with the case file since that may be the only portion the court may need to rely upon in this instance. If that court requires the full transcript, I am certain it will demand it from you accordingly.

For posterity, let me be clear. Because of the excuse you have given and the evidence I have, you *did not* diminish my intent to file the Petition for the Writ of Mandamus. I hope you fully understand that being found guilty by the jury in that action will lay the foundation for your impeachment from office. I have stated before that this is something that I do not desire to do but your acts, inaction and/or malingering is forcing my hand.

Because of our and your agent's past kind service to me, I will extend the date originally given for my filing of the Writ of Mandamus Petition to February 16, 2015 so as to permit you time to transmit the case file, Sentencing – Phase portion of the transcript, and Notice to the Appellate Court explaining the absence of the full transcript and your efforts to secure a replacement copy, as well as a letter to me of your willingness to comply with this demand before January 31, 2015. I truly pray that you will accept these terms and permit me to go on to appeal the matter at issue, something that you would want for yourself of a loved one if in the same shoes— it's an immutable right.....

I greatly look forward to your kind and timely response to this writing.

Sincerely, I am

A handwritten signature in black ink, appearing to read 'Trent D. Clemens', written over the typed name.

Trent D. Clemens
Encl: Index (Of Case, Indictment No: 06-R-105)
Cc:File;
Mallory and Trice, Attorneys at Law.

Office of
Teresa Harper
Clerk of Superior Court
Upson County, Georgia

P.O. Box 469
Thomaston, Georgia 30286

Telephone (706) 647-7835
Fax (706) 647-8999

March 6, 2015

Clemens Construction Inc.
3844 Lower Tanners Bridge Rd.
Monroe, Ga. 30656

Trent Clemens - GDC #734876
Dooly State Prison
P.O. Box 750
Unadilla, Ga. 31091

RE: Writ of Mandamus – Notice of Appeal

Dear Mr. Clemens,

Please find enclosed the Writ of Mandamus that you sent to be filed with my office. I am cannot file the Writ without payment of filing fees. I have enclosed the guidelines along with an invoice for costs.

Perhaps, there has been some miscommunication. You have requested that an appeal be sent up based on the denial of your motion to void illegal sentence by Judge Edwards. Your request included that the transcript be included with this appeal. I do have the transcripts of your trial but I do not have the transcript for the hearing for the motion to void illegal sentence. If you are filing a notice of appeal based on this issue, then the transcript from the hearing held on September 8, 2014 will need to be included. If you wish for me to send the record to the court of appeals without this transcript then you will need to file an amended notice of appeal to exclude any transcripts of this proceeding.

I hope this will clear up any miscommunication. However, if you still wish to file the Writ of Mandamus please return the Writ along with the proper filing fees.

Sincerely,



Teresa Harper
Clerk of Superior Court
Upson County, Georgia

Cc: Heath English
English Law Group

However, solutions to our respective problems are extant.

- 1.) I would be inclined to tender an **Out-of-time** Notice of Appeal – Giving a specific request to exclude a transcript of the **reading** of the Motion to Void Illegal Sentence – if, and only if, I were to receive a guarantee, in writing, from Judge Edwards that he would grant same. It would be well within your bounds to inquire into this scenario with Judge Edwards due to your admitted misunderstanding regarding the **reading** of said motion, and thus, the lack of any transcript of the same, which caused the stagnation of the appeal of the motion.

-OR-

- 2.) Promptly transmit the case record and transcript of the conviction to the **appellate court**, along with a proper explanation giving your honest misunderstanding as the reason why the case matter was not transmitted within the time given by the applicable rule of court and/or law.

Either choice you make would render the Mandamus Petition moot. Option 1 may be easiest and less disconcerting.

I feel compelled to restate that I never did, and still do not, desire to proceed with a Mandamus Action against you – mainly due to you and your office's kind assistance to me over the last 8+ years. I am just trying to obtain Justice, which I earnestly believe that I am entitled to, from my understanding of the law,.....in any and all forms that it may exist. Additionally, I believe that, with your earnest assistance at this critical juncture, I can at least be set back on the path toward seeking such in my appeal.

I greatly look forward to your prompt and favorable response to this letter.

Sincerely,



Trent D. Clemens

Cc: Brent G. Clemens;
File:
Heath English, English Law Group.

Trent Clemens
GDC # 734876
Dooly State Prison
P.O. Box 750
Unadilla, GA 31091

April 16, 2015

Christopher Edwards, Judge
Griffin Judicial Circuit
1 Center Drive, Room 239
Fayetteville, GA 30214

Re: Delayed Appeal of Pleading

Dear Judge Edwards:

I hope to obtain your assistance with a problem I am experiencing concerning the appeal of my Motion to Void Illegal Sentence filed and read on September 8, 2014 in your court. (Indictment No: 06R-105).

After your denial of said motion, I properly and timely submitted to the court my notice of appeal. However, after a length of time had passed, I noticed that the appellate court had not issued a docket number related to the appealed motion. Upon inquiring into the matter, I learned that the Upson County Clerk's Office had not transmitted the case file and transcript, as requested in the Notice of Appeal, within the 20 days as required by law/rule of court.

When I contacted Clerk Teresa Harper, I was initially informed that she had not transmitted the case materials because "*No transcript was on file in her office.*" Despite several letters that assured her to the contrary, Mrs. Harper stood on her contention that there was no transcript.

I eventually attempted to file a petition for the Writ of Mandamus against Mrs. Harper.

The tact seemingly prompted the discovery of the trial transcript, although, it did not cure the dilemma.

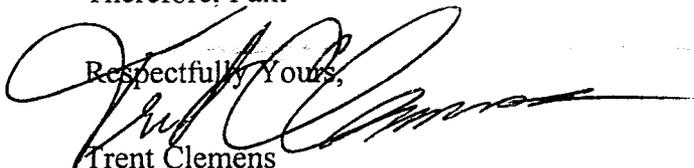
I truly believe this would be best for both Mrs. Harper and myself -- My appeal will cease to be delayed and Mrs. Harper will not have to go through a very public and discrediting court action. (A thing which I have stressed to her I don't want to do, but will to maintain the right to the appeal at issue.)

I respectfully ask that you will promptly respond to this letter and question posed herein as soon as possible so that I can ponder my next steps in this endeavor.

I wish to thank you in advance for the effort you will put toward this matter;

Therefore, I am

Respectfully Yours,


Trent Clemens

Encl: Correspondence from Teresa Harper,
Dated Jan. 6 2015 & March 6, 2015

Cc: Office of the District Attorney,
Upson County