



Court of Appeals of Georgia

May 22, 2015

TO: Mr. Richard E. Daniel, GDC216862, Jenkins Correctional Center, 3404 Kent Farm Road, Millen, Georgia 30442

RE: **A14A2334. Richard Eugene Daniel 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 March 2, 2015. The remittitur issued on March 17, 2015, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

Your Motion for Estoppel is being returned to you.

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.

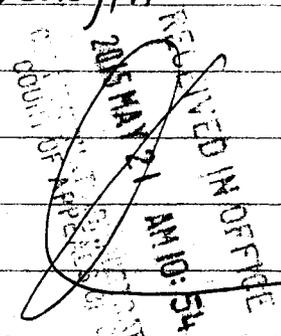
IN The COURT OF APPEALS OF Georgia
STATE OF Georgia

Richard Eugene DANIEL
APPELLANT, PROSE

V.

STATE OF Georgia
APPELLEE

CASE NO.
A14A2334



MOTION FOR
ESTOPPEL

COMES NOW, RICHARD EUGENE DANIEL, APPELLANT PROSE, AND FILES THIS HIS ESTOPPEL AGAINST THE DECISION AND OR JUDGEMENT FILED MARCH 2, 2015 IN THE ABOVE STYLED CASE PURSUANT O.C.G.A. 24-4-24 (A) (B) (1) (2) (3) AND SHOWS THE FOLLOWING FACTS:

(1)

APPELLANT FILE A MOTION TO REMAND THE ABOVE STYLED CASE DECEMBER 5, 2014 PURSUANT TO COURT OF APPEALS RULE 11(d) CERTIFIED MAILING NO: 7013 1710 0000 3337 3553 STATING THAT THE ENTIRE RECORD HAD NOT BEEN TRANSMITTED TO THE COURT. SEE MOTION TO REMAND P. 6 (8)

(2)

Also within the motion to Remand Appellant Alleged Judicial misconduct by the Trial Judge, The clerk of Court and also the public defender's Office, (Motion p.3(4) p.4(5)(6) p.6(7)(8)]

Therefore Creating the Presumption That Appellant's Constitutional Rights had been disregarded completely By the Actions of the Lower Court.

O.C.G.A. 24-4-20

There was not any opposition, objection and or response from the State (Appellee) concerning the alleged misconduct which created another

Presumption Failure to Answer O.C.G.A. 24-4-23

Appellee's Failure to even respond to the alleged judicial misconduct and or illegal actions by the lower court, shows according to law that Appellee "is presumed to admit the propriety of the acts mentioned in the letter of his correspondent and to adopt them" O.C.G.A. 24-4-23

The Judges of the Appeals Court should have followed the Code of Judicial Conduct Cannon 2(A)

CANON 3(5) 3(II)(D) AND AT LEAST
LOOKED INTO THE PRESUMPTIONS THAT
APPELLANT HAD CREATED WITH HIS
MOTION, THAT NO ONE WAS EVEN
TRYING TO DESPUTE OR REBUTT.

APPELLANT NOT ONLY ALLEGED
VIOLATIONS OF HIS CONSTITUTIONAL
RIGHTS IN THE MOTION, BUT ILLEGAL
ACTIONS IN THE HANDLING OF THE
RECORD OF THE CASE IN THE LOWER
COURT. LAWS WERE BEING VIOLATED
IN ORDER TO SUSTAIN APPELLANT'S
UNCONSTITUTIONAL CONVICTION. THE
APPEALS COURT HAD A CONSTITUTIONAL
RESPONSIBILITY TO ENSURE APPELLANT
A FAIR AND IMPARTIAL HEARING ON
THE APPEAL

IT'S INDEFENSIBLE THAT AN APPEAL
CANNOT BE PERFECTED UNLESS THE ENTIRE
RECORD IS THERE, AND THAT IS NOT
THE CASE HERE, THE LAW REQUIRES THE
ENTIRE RECORD TO BE TRANSMITTED

D.C. GA. 5-6-41(d) 5-6-43(A)

5-6-48(d) BUT IN APPELLANT'S CASE
THOSE LAWS AND OR STATUTES WERE
NOT FOLLOWED, HENCE THE REASON FOR
THE MOTION TO REMAND. APPELLANT.

waited About two months on
some sort of decision on the
motion to Remand, ASSUMING COURT
OF Appeals Rule 41(e) Would Apply.
The court did not Rule on the
motion until MARCH 2, 2015,

The court denied the motion at
that time, Appellant would ALSO point
out that the motion contained notice
to the court that Appellant did not
have ANY OF the TRANSCRIPTS OF the
Case, Motion p. 6 (8) It's AN ESTABLISHED
LAW THAT A PRO SE DEFENDANT HAS
A CLEAR LEGAL RIGHT TO HAVE OR BE
PROVIDED WITH A COPY OF THE RECORD
OF THE CASE TO PRESERVE AN APPEAL,
AND IF A DEFENDANT IS NOT PROVIDED
WITH A COPY HE IS DENIED DUE PROCESS
SEE: GRIFFIN V. ILLINOIS 351 US. 12, 20. 100
LED 891, 76 S. CT. 585. (1956) AND ALSO
DOUGLAS V. CALIFORNIA, 372 US 353, 9 LED 2d 811
83 S. CT. 814 (1963)

This court was on notice that
Appellant did not have ANY OF
the Record, AND AS OF APRIL 28,
2015 still does not have ANY
OF the Record OR TRANSCRIPTS!

OF the Case, Even though Appellant has Filed Atleast Four (4) motions To the trial Court trying to Obtain Them. The LAST ONE OF Which WAS Filed JANUARY 23, 2015 Certified mailing NO: 7013 1710 0000 3337 3430

The Court OF Appeal's Still does not have A Complete Copy OF the Record Either, Which AGAIN IS CONTRARY TO Established CONSTITUTIONAL LAW AND Georgia Statute's AS mentioned Above.

This is A Conclusive presumption OF LAWS. AVERMENTS to the CONTRARY OF Such Presumptions shall not Be Allowed. O.C.G.A. 24-4-24 (A)

(3)

AFTER two months with NO Response FROM the Court, Appellant Filed A Motion to Supplement the Record.

Filed February 2, 2015 Pursuant to Court OF Appeals Rule 41(c) ASKING the Court To Order the Complete and Entire Record be Sent up FROM the lower Court. This Motion WAS ALSO denied MARCH 2, 2015 Which is ALSO CONTRARY TO Established CONSTITUTIONAL AND

OR STATUTORY LAW. Appellant HAS A RIGHT TO HAVE THE COMPLETE AND ENTIRE RECORD OF THE CASE PRESENT FOR HIS APPEAL, WHICH IS A CONCLUSIVE PRESUMPTION OF LAW. O.C.G.A. 5-6-41(d) 5-6-43(A) 17-1-3 17-8-5.

Therefore THE DENIAL OF Appellant's motion to supplement the RECORD WITH THE ACTUAL RECORD IS CONTRARY TO ESTABLISHED LAW AND CANNOT BE ALLOWED O.C.G.A. 24-4-24(A)

(4)

Appellant ALSO FILED A MOTION TO FILE A SUPPLEMENTAL BRIEF PURSUANT TO COURT OF APPEAL RULE 27(A) FEBRUARY 2, 2015 WHICH WAS DENIED MARCH 2, 2015, THIS DENIAL ALSO WAS CONTRARY TO CONSTITUTIONAL AND OR STATUTORY LAW. O.C.G.A. 5-6-48(E) Appellant HAS A CONSTITUTIONAL RIGHT AS TO WHICH ISSUES AND OR ERRORS HE RAISES ON AN APPEAL, WHETHER HE IS REPRESENTED BY COUNSEL OR HE IS A PRO SE APPELLANT, IN THIS CASE Appellant

(10)

WAS OR HAS BEEN A PROSE.
Appellant since November 24, 2014
By order of the Court. About
(1) one month AFTER Appellant
Appointed Attorney had Filed A
Brief, Appellant Filed his First
Motion shortly there-AFTER pointing
out ERRORS He had RAISED AND
Intended TO PROSUE ON his Appeal.
The FACT that this Court has
Refused Appellant his Constitutional
Right to RAISE Issues which
have Been clearly RAISED AT
the TRIAL COURT. Especially ERRORS
Which ARE Considered the Foundation
OF the Judiciary! NAMELY AN IMPARTIAL
TRIAL Judge, AND the denial OF
the TRIAL Judge to even ALLOW
Appellant the Right to LEGAL MATERIALS
to PREPARE ANY SORT OF DEFENSE
is clearly CONTRARY TO ANY AND
ALL ESTABLISHED CONSTITUTIONAL LAW
Therefore Creating AN Estoppel AS
described in O.C.G.A. 24-4-24 B(1)(2)

CONCLUSION

From the very START OF
This GRAVE miscarriage OF
Justice December 12, 2013 when
Appellant WAS First Brought into
what WAS suppose to Be A court
OF LAWS,

Appellant Attempted to purchase two
LAW Books to help him prepare a
defense, The TRIAL Judge Cindy
Morris LAUGHED AT Appellant ALONG
with MOST Everyone in the court
room, From that point the Judge
engaged in trying to Get Appellant
TO TAKE A plea deal, Because
Appellant stood firmly on his not
Guilty Plea, the Judge went on
TO COER AND Intimidate Appellant
with what she would do "if
Appellant didn't take a plea,

Then AFTER All that she ordered
Appellant BACK ON December 31, 2013
TO SEE if "he would take a
deal then." (Hearing transcript December 12,
2013 LAST PAGE) Appellant WAS Brought
BACK AS ordered but he wouldn't
TAKE the deal, He did file A

Motion to Recuse the TRIAL Judge that day stating these very facts, that's the reason that the Appellee (the State) hasn't responded, objected or opposed the motion. Appellant having filed with this court. Because all he has stated is in the true record of this case, in fact the only opposition Appellant had concerning his motion's to this court were this court! Which in and of itself is contrary to established constitutional law.

The Appellee ask for an extension for time to file a brief 46 days after the case was docketed,

which is contrary to court rule 23 (B) and the court granted Appellee another 28 days to file the brief. Seems as though the court was bias when it came to a pro se Appellant doesn't it?

The fact remains that Appellant Richard Daniel has a constitutional right to due process and that right has clearly been denied by

The TRIAL COURT AND the Appeals
COURT.

"Nothing short of notice of proceeding
and opportunity to be heard in
opposition thereto will satisfy the
Due Process clause of the state
Constitution."

Keenan v. Hardison, 245 GA. 599, 266 SE 2d 205 (1980)

Appellant Richard Daniel gave notice
to the TRIAL COURT ON December 31, 2013
with a motion to Recuse The TRIAL
Judge, Alleging that he was being
denied:

- 1.) AN IMPARTIAL TRIAL Judge.
- 2.) That he was being denied the right
to prepare a defence.
- 3.) That he was being Coered and Intimidated
into a Plea of Guilty.

Appellant gave notice again on
February 3, 2014 with a notice of Appeal
(IE motion to withdraw his Plea.)
of those very same issues.

Appellant Gave notice to the Georgia Court of Appeals December 5, 2014 with a motion to Remand, which contain those same errors.

Appellant Again Gave notice to the Georgia Court of Appeals, with a motion to file a supplemental brief February 2, 2015

"Fundamental Idea of due process of law, is that of notice and hearing"
Mulkey v. Mulkey, 219 GA. 747, 136 SE 2d 129 (1964)

Appellant having given notice of his opposition to the errors within the proceedings even before the plea was entered, yet Appellant's has not as of this date received and been advised of any hearing therefore establishing a clear and direct denial of due process of law

"Under the due process clause, without notice and opportunity to be heard there is no jurisdiction to pass judgement."
Citizen v. Contractor Bank, 175 GA. 779, 166 SE 227 (1932)

Therefore the Right TO "Due process OF LAW" is A CONCLUSIVE presumption OF LAW.

"AVERMENTS to the CONTRARY OF SUCH Presumptions shall not be Allowed"
O.C.G.A. 24-4-24 (A)

APPELLANT HAS CONTINUOUSLY RAISED THE AFORE MENTIONED ERRORS, EVEN BEFORE THE PLEA WAS ENTERED IN THE CASE.

BUT HAS BEEN DENIED A HEARING AND ADJUDICATION ON THE MERITS OF THE ISSUES, THEREFORE THE ESTOPPEL IS PROPER BEFORE THIS COURT, AND WHATEVER MEASURES NEEDED TO CORRECT THIS MISARRANGE OF JUSTICE MUST BE CARRIED OUT IMMEDIATELY TO PROTECT THE CONSTITUTIONAL RIGHTS OF APPELLANT.

Respectfully submitted this 15th DAY OF
MAY 2015

Richard E. Daniel
Richard E. DANIEL
PRO SE

Certificate of Service

This is to certify that I have
this day served the below shown
parties with an original or copy
of this Appellant Motion For
Estoppel, by placing same in the
US Mail with sufficient postage
and proper address to ensure
delivery

Dated this 15th day of MAY 2015

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Richard E. DANIEL
PRO SE.
216862

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