

The Court of Appeals
47 Trinity Avenue SW, Suite 501
Atlanta, Georgia 30334

STEPHEN E. CASTLEN
CLERK AND COURT ADMINISTRATOR

404-656-3450

December 14, 2015

Mr. Danny Deloney
GDC1078300
Georgia Diagnostic and Classification State Prison
Post Office Box 3877
Jackson, Georgia 30233

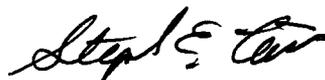
Dear Mr. Deloney:

I am in receipt of your Motion for Out-of-Time Appeal. The motion should be made to the trial court from which you are appealing. If your motion is denied, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Also, you will need to attach a stamped filed copy of the trial court's order you are appealing. In addition, please always add a Certificate of Service and provide a copy of your documents to the District Attorney and include his/her name and address on the Certificate of Service.

I am returning your documents to you.

Sincerely,



Stephen E. Castlen
Clerk/Court Administrator
Court of Appeals of Georgia

SEC/ld
Enclosures

COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS

12/10/15

CA

To: *Danny Deloney*

Docket Number: Style: *Danny Deloney v. The State*

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5. Please be advised that your pauper's affidavit should be notarized by a notary public.
2. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rules 1(c), 30 (e) and 31 (c)
16. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).

Motion for out of time appeal is filed in the trial court.

For Additional information, please go to the Court's website at: www.gaappeals.us

IN COURT OF APPEAL OF GEORGIA
State of Georgia

DANNY DeLooney
Petitioner,

v.
State of Georgia
Respondent,

RECEIVED
2015 DEC 10 PM 3:05

Case No: 99CR-5223-5

Motion for out-of-time Appeal and to Amend

Now comes the Petitioner DANNY E. DeLooney #1079366, A PRO-SE Petitioner Pursuant to Georgia Court of Appeal Rule and move to Review and Make a Ruling. Petitioner Submits the following as part of the motion Petitioner filed to Support thereof:

1) The Court of DeKalb County fail to make a Ruling in a Reasonable time frame which violate Petitioner 14 Amend Due Process.

2) Ineffective Assistance Counsel: Failure to inform Defendant Rights to Appeal conviction. Failure to Give Defendant notice of Appeal on time. Failure to advise Defendant of the Limitation for filing notice of Appeal, Failure to advise Defendant the Right concerning Appeal. Failure to Perfect Appeal within a Reasonable time. Failure to advise Defendant of a appointed Counsel on Appeal. If you read Plea transcript Defendant did not waive his Rights to Appeal as of Right merely by Pleading Guilty. Defendant is entitled to an Appeal to Appeal an adverse Judgment. is indeed a hollow one if the one to whom it ACCUSES is NOT informed of its existence Defendant fundamental Rights of Due Process and Equal Protection the state has created a Right to Appeal it must offer each Defendant a fair opportunity to obtain an adjudication in the merits of Defendant Appeal. Defendant attorney fell well below the standard of Reasonable effective assistance and that their Performance Prejudiced Defendant Defense to Appeal conviction which violate the Constitutional Right 14 Amendment Due Process. BY NOT Informing Defendant his Rights to Appeal Deprive Defendant his Due Process. ZANT V. COOK 259 GA 379 S3d 780 (1999) MORENO V. STATE 216 GA 463 S2d 472 (1995). FLEMING V. STATE 276 GA APP 191. 623 S2d 696 (2005). Rule 11(C)(6) 1999 mandate Before Court accepts a Plea of Guilty or Waive Contender the Defendant must be Place under Oath and the Court must address the Defendant Permanently in open Court During this address

the Court must ~~inform~~ the Defendant of and Determine that the Defendant understand the following (1) the term of any Plea Agreement Provision involving the Right to Appeal or to collaterally attack the Sentence that the Court Deprived me of that Right to attack my Sentence and to Appeal my Conviction. Read Plea transcript.

3) Ineffective assistance of Counsel: Guilty Plea should be invalid under Rule 11 ed R. CRIM. P 11(b)(3) and 239 State v. Evans 265 GA 332 (1995) Evans v. State 212 GA App 805 143 S.E.2d 291 (1994) the State use ARSON for the factual Basis to accepting Guilty Plea and Conviction of Felony Murder and Notice the ARSON Charge was Nolle Prosequi so there's no factual Basis for this Plea. If you Read Plea transcript (Pg 21) I also Plead Guilty to the ARSON Charge that's Double Jeopardy How can a Defendant Plead to a Charge that was Nolle Prosequi.

4) Ineffective assistance Counsel: Violation of Defendant Constitutional Rights Defendant Not understanding the Rights of Being Waive Guilty Plea was Not Knowingly and Voluntarily Entered and all Rights Need to be Inform if Not waiving them Davis v. State 673 S.E.2d 19 295 GA App 633 GA Court of Appeal State v. Futch 279 GA 305 672 S.E.2d 796 (2005) Id at 42 675 S.E.2d 709. Hayes v. State 697 S.E.2d 92 (2007) Davis v. State 411 US 233 (1973) 36 S.E.2d 216 (1973) 411 US at 245 OCGA 9-14-48 D

5) Ineffective assistance of counsel: the State Sentence Defendant under the Workman Statute: OCGA 17-10-30 - OCGA 17-10-32-1 the State use ARSON for the Aggravating Circumstance to sentence Defendant to Life w/o Parole which that Sentence should be vacated Due to the fact the ARSON Charge was Nolle Prosequi so there's no Aggravating Circumstance to sentence me to Life w/o Parole and no Aggravated Circumstance for a Conviction for Felony Murder. The State also violate OCGA 17-6-3. The State didn't Inform Defendant that was Nolle Prosequi the ARSON Charge. If a Person while facing the Death Penalty He shall Receive Life w/o Parole if the Judge find a Aggravating Circumstance Defendant Did not take a straight Guilty Plea Defendant Plead to an Alford v. North Carolina Plea and the Aggravating Circumstance that the State use was ARSON which in fact the State Nolle Prosequi the ARSON Charge so there is sufficient Evidence for a Aggravating Circumstance so this Plea should have not Been accepted.

Under Alford v. North Carolina 455 F.2d 340 (1969). North Carolina Does not Permit an accused who Pleads Not Guilty to waive a jury trial the accused may avoid a jury trial ONLY if He Pleads Guilty and by so doing a Plea of Guilty may not result in a punishment no more severe than life Imprisonment. North Carolina v. Alford 400 US 25 (1975) in Reaching It's Conclusion the Court Read to Require invalidation of the North Carolina Statutory Framework for the imposition of the Death Penalty because North Carolina Statutes encouraged Defendant to waive Constitutional Rights by the Promise of No more than Life Imprisonment if a Guilty Plea was offered and accepted. Conceding the Court of Appeal Ruled that Alford Guilty Plea was involuntary because its principal motivation was fear of the Death Penalty. If you Read Plea Transcript PG 16 MY Lawyer Stated "there is a substantial Risk if he was to go to trial that he would be found Guilty. Defendant was fear of the Death Penalty. that's why I tried to escape from DeKalb County Jail hoping the Police shoot and kill me. Read Plea Transcript.

b) Ineffective Assistance of Counsel: Failure to Get Defendant a Psychiatric Evaluation to see if Defendant was Competent to accept Guilty Plea Read Plea Transcript PG 11. Lawyer Stated: Your Honor, Like I Said at the time of the actual Murder Incident. Unfortunately I think things escalated to the point where he felt trapped and He panicked and this is what happened the escape charge He was just feeling so Desperate and once again, I honestly believe that this was another Suicide Attempt on his Part his intention or hope that he would get shot. Under OCGA 16-3-3: States a person shall not be found Guilty of a crime when at the time of the act a mission or negligence constituting the crime overmastered his will to resist committing the crime. The Lawyer Stated I was trapped and Panicked, which mean over Duress so if she (Lawyer) known this before Defendant took Plea why didn't she Get Defendant Psychiatric Evaluation. Woods v. Zahradnick 430 F.Supp 107, 112 (DVA 1977) where Defense base upon mental Condition were the only plausible line of Defense the Court can envision. No factual Reason why these Defense were not explained.

the sentence under sec 225 in Fisher v. United States 1963 therefore
the case must be remanded for a hearing on the question of
Fisher's guilt at the time he pled guilty. *Mollins v. Hopper*
242 GA 123, 249 S.E.2d 606 (1978)

12-6-15

Danny DeLoach



CLERK OF SUPERIOR COURT

DeKALB COUNTY COURTHOUSE
556 NORTH MCDONOUGH STREET
DECATUR, GEORGIA 30030

DEBRA DEBERRY
CLERK OF SUPERIOR COURT

404-371-2836

Date: 7/13/15

Indictment No.: 99CR5223

RE: DANNY DELONEY

THE ENCLOSED IS BEING RETURNED FOR THE REASON(S) CHECKED BELOW:

Check or Money Order not enclosed

Plain copies are \$1.00 per page, total cost for documents requested is \$ _____

Certified copies are \$2.50 for the first page and \$.50 for each additional page.
Total cost for documents requested is \$ _____

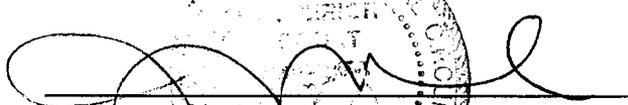
Original documents needed for filing

Original documents need signature

The Clerks office no longer performs this service

Other: YOUR LETTER HAS BEEN FORWARDED TO THE JUDGE'S CHAMBERS AS
WELL AS THE DISTRICT ATTORNEY'S OFFICE.

If you have any questions, please contact me at (404) 371-2836


Deputy Clerk
DeKalb County Superior Court

In the Superior Court of DeKalb County
State of Georgia

Samuel Delaney
vs.
State of Georgia

Case No. 99CR52235

99CR5223-5

MOTION
Out-of-Time Appeal

Ineffective assistance counsel: Failure to inform Defendant Rights to appeal
Failure to give Defendant notice of appeal out of time failure to advise
Defendant of the limitation for filing notice of appeal failure to advise Defendant
Rights concerning appeal failure to perfect appeal within a reasonable time
Failure to advise Defendant of a appointed counsel on appeal Defendant did not
waive his rights to appeal as of right merely by Pleading guilty. Defendant is entitled
to an appeal as of right Defendant was entitled to be informed of that right for the
right to appeal an adverse judgment. is indeed a hollow one if the one to
whom it accrues is not informed of its existence Defendant Fundamental
rights of due process and equal protection. the state has created a right
to appeal it must offer each Defendant a fair opportunity to obtain an adjudication
at the merits of Defendant appeal. Defendant Attorney fell well below the standard
of reasonable effective assistance and that their performance prejudiced Defendant
defense to appeal conviction which violate the Constitutional Rights 14 Amendment
due process. By not informing Defendant his rights to appeal Deprive Defendant
his due process. 2 Ant v Cook 259 GA 379 S2d 760 (1989) Missouri v State 260
Mo 352d 472 (1995) Fleming v State 276 GA App 491 623 S2d 696 (2005)
Rule 11 provide before the court accepts a plea of guilty or nolo contendere
the Defendant may be place under oath and the court must address the
Defendant personally in open court during this address the court must inform
the Defendant of and determine that the Defendant understand the following (1)
the terms of any plea agreement provision waiving the right to appeal
& to collateral attack the sentence that deprived me of that right I could
not appeal my conviction.

1. Ineffective assistance of counsel: Guilty Plea should be invalid under Rule 11
e.d.r. Crim R 11(b)(3) State v. Evans 263 GA 332 (1995) Evans v. State 276 GA App 805
623 S2d 296 (1994) that state use counsel for the factual basis to accept
guilty plea and conviction of capital murder which violate 14th

...Ineffective Assistance of Counsel: Violation of Constitutional Rights Defendant
not understanding the Rights of Being Waive Guilty Plea was not
knowing and voluntary entered and all Rights need to be inform
if not waiving them Davis v. State 673 SE2d 19 295 GA App 623 GA Court
of Appeal. State v. Fitch 279 GA 300 612 SE2d 796 (2005) Ed at 42 635 SE2d 769
James v. State 642 SE2d 92 (2007) Davis v. State 411 US 233 (1973) 1577.36
Ed 216 (1973) 411 US at 245. OCGA 9-14-48 D.

6-21-15

CLERK OF SUPERIOR COURT
DEKALB COUNTY, GA
2015 JUN 29 11:41:13
FILED
Dorothy Jones

SCANNED

Clerk of Court,

6-2015

I had filed this motion on 3-29-15. But I sent it to the Judge. Adam I didn't send it to the Clerk office. Since I haven't heard anything I thought it might wasn't file since I didn't send it to the clerk office so I'm filing it again and I filed a motion to amend for this motion as well I also filed a motion for out of time sentence review. It was sent 4-5-15 and filed 4-15-15 do you know how long for the Judge to look at the motion and make a Decision? Thank you for your time!

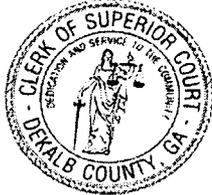
Danny Williams
#1078300 Bwing 208
PO Box 3877
Jackson GA 30233

CLERK OF SUPERIOR COURT
DEKALB COUNTY GA

2015 JUN 29 PM 4:43

FILED
D

SCANNED



CLERK OF SUPERIOR COURT
DeKALB COUNTY COURTHOUSE
556 NORTH MCDONOUGH STREET
DECATUR, GEORGIA 30030

DEBRA DEBERRY
CLERK OF SUPERIOR COURT

404-371-2836

Date: 6/3/15

Indictment No.: 99CR5223

RE: DANNY DELONEY

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Total cost for documents requested is \$ _____

Original documents needed for filing

Original documents need signature

The Clerks office no longer performs this service



Other: YOUR LETTER HAS BEEN FORWARDED TO THE JUDGE'S CHAMBERS AS
WELL AS THE DISTRICT ATTORNEY'S OFFICE.

If you have any questions, please contact me at (404) 371-2836


Deputy Clerk
DeKalb County Superior Court

Jamill Delaney

State of Georgia

Motion to Amend
for Out-of-Time Appeal
for Conviction

Judge Adm
Case No: 99CR5223-5

July 15

... Ineffective assistance of counsel: the State Sentence Defendant under the wrong Statute 16-32-1 If a Person Plea while facing the Death Penalty He Shall Receive Life w/o Parole if the Judge find a Aggravating Circumstance. Defendant Didnot take a straight Guilty Plea Defendant Plea to Fel Afford v. North Carolina Plea and the Aggravating Circumstance that the State Use was ARSON which in fact the State Nolle Pross the ARSON Charge so there is no sufficient Evidence for a Aggravating Circumstance so this Plea should have Not Been accepted. Under Afford v North Carolina 405 F2d 346 (1968) North Carolina Does Not Permit an accused who Pleads Not Guilty to waive a Jury trial. The accused may avoid a Jury trial only if He Pleads Guilty and by Statute a Plea of Guilty may Not Result in a Punishment also more severe than life Imprisonment. North Carolina v. Afford 400 US 25 (1970) in Reaching its Conclusion the Court Read to Require invalidation of the North Carolina Statutory Framework for the imposition of the Death Penalty because North Carolina Statutes encouraged Defendants to waive Constitutional Rights by the Promise of No more than life Imprisonment if a Guilty Plea was offered and accepted. Considering the Court of Appeal Ruled that Afford Guilty Plea was involuntary because its principal motivation was fear of the Death Penalty. If you Read Plea transcript Page 18 my lawyer states "there is a substantial risk if he was to go to trial that he would be found Guilty". Defendant was ~~fear~~ ⁱⁿ fear of the Death Penalty.

Ineffective assistance of counsel: Failure to Get Defendant a psychiatric evaluation to see if Defendant was Competent to accept Guilty Plea. Read Plea transcript Page 11 Lawyer stated: "for Honor, like I said at the time of the actual murder Incident unfortunately I think things escalated to the point where he felt he needed and he panicked and this is what happened. The escape charge He was just feeling so Desperate and once again, I honestly believe that this was another suicide attempt in his past his intention or hope that he would Get Shot. Under OCGA 16-3-3 States: A Person Shall Not be found Guilty of a Crime when, at the time of the act omission or negligence constituting the Crime

stated I was traced and panicked which means over power so if she
knows this before Defendant took Plea why didn't she get
Defendent Psyciatric Evaluation. Woods v. Zahradnick 430 F Supp 107, 112
ED VA 1977 where Defense base upon mental condition were the only
Plausible Line of Defense the Court can envision. No tactical Reason
why these Defense were Not explored. the Sentence under
sec 225 in Fisher v. United States 1963 therefore the Case must be
demanded for a hearing on the Question of Fisher sanity at the
time he Plead Guilty. Mullins v. Hopper 242 GA 123 249 S.E.2d 606
(1978)

5-10-15

Danny DeJong

FILED
2015 MAY 18 PM 12:43
CLERK OF SUPERIOR COURT
DEKALB COUNTY GA