



**Court of Appeals of Georgia**

May 7, 2015

TO: Ms. Shary F. Drawdy, 711 Signal Mountain Road, #135, Chattanooga, Tennessee 37405

RE: **A14A1217. Shary F. Drawdy v. Erik S. Hullender a.k.a. Eric S. Hullender**

**DUPLICATE COPIES**

- The enclosed duplicate copies of your Notice of Intent and Motion for Stay of Remittitur are being returned to you.**

**REQUEST FOR COPIES**

- We received your request for copies. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. The Court of Appeals of Georgia is not subject to the Open Records Act. Costs for copies you indicated you would like are:**

**Please send your check or money order to the following address specifying exactly what copies you want to be sent to you. Your request will be processed and sent to you by return mail.**

**Court of Appeals of Georgia  
47 Trinity Avenue, S.W. • Suite 550  
Atlanta, Georgia 30334**

**REQUEST FOR FORMS**

- This Court does not have the forms you requested.**

**COURT RULES**

- At your request, a copy of the Rules of the Court of Appeals of Georgia has been enclosed for your review.**

**APPOINTMENT OF COUNSEL**

- You should direct an inquiry concerning appointment of counsel to the trial court from which you are appealing. This Court cannot appoint counsel for you.**

IN THE COURT OF APPEALS FOR THE  
STATE OF GEORGIA

SHARY F. DRAWDY,

DOCKET No. A14A1217

Appellant,

V.

ERIK S. HULLENDER, A/K/A ERIC S. HULLENDER,

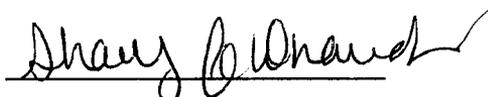
Appellee.

To: Clerk Court of Appeals of the State  
47 Trinity Avenue S.W., Suite 501  
Atlanta, Georgia 30334

This the 30th day of March, 2015.

NOTICE OF INTENT AND MOTION FOR STAY OF REMITTITUR

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Shary F. Drawdy/ Pro Se  
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Chattanooga, Tennessee 37405  
Phone No. (423) 994-0063

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376 Cloud Springs Road,  
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Fort Oglethorpe, Georgia 30742  
Phone # (706) 866-0950

**APPELLANT SHARY F. DRAWDY**

**NOTICE OF INTENT AND MOTION FOR STAY OF REMITTITUR**

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Appellant Shary F. Drawdy, hereby provides notice of her intent to file a petition for writ of certiorari to the United States Supreme Court and moves this Court to enter an order, staying remittitur in this Court while Appellant seeks said writ of certiorari in the United States Supreme Court. Georgia Supreme Court Rule 61 provides: STAY OF REMITTITUR. Any party desiring to have the remittitur stayed in this Court in order to appeal to, or seek a writ of certiorari in, the United States Supreme Court shall file in this Court a motion to stay the remittitur with a concise statement of the issues to be raised on appeal or in the petition for certiorari. Such notice shall be filed at the time of filing a motion for reconsideration or, if no motion for reconsideration is filed, within the time allowed for the filing of the same. See Rule 27. A stay of remittitur will not be granted by this Court from the denial of a petition for certiorari. In addition, 28 U.S.C. § 2101 provides, in pertinent part:(f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court,

and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay. Appellant hereby provides notice of its intent to file a petition for writ of certiorari to the United States Supreme Court for review of this Court's decision dated November 14, 2014. Appellant's petition must be filed no later than ninety (90) days from the date of the judgment or a decision on reconsideration of the judgment. 28 U.S.C. § 2101(c). The filing of the petition for writ of certiorari to the United States Supreme Court does not prevent judgment of this Court from becoming final until the United States Supreme Court acts upon the petition, where no stay of mandate has been issued. *Glick v. Ballentine Produce, Inc.*, 397 F.2d 590 (8th Cir. 1968). The petition for writ of certiorari alone does not stop remittitur. *Byrne v. Roemer*, 847 F.2d 1130 (5th Cir. 1988). However, Rule 61 of the Rules of the Georgia Supreme Court and 28 U.S.C. § 2101(f) empower this Court to stay remittitur, pending a decision by the United States Supreme Court on Appellant's petition for writ of certiorari. Appellee respectfully moves this Court to exercise its power to stay remittitur in this important case, pending Appellant's application for review by the United States Supreme Court.

#### **I. STATEMENT OF THE ISSUES TO BE RAISED BY WRIT OF CERTIORARI.**

In its petition for writ of certiorari to the United States Supreme Court, Appellant intends to raise the following issues:

**A.** Whether This Court Incorrectly Applied the Holding and Guidelines of O.C.G.A. 19-9-20, in its Analysis of Neutral Principles, thereby violating the Amendment rights of the Appellant of the First, Fifth, and Twelfth amendments to the Constitution of the United States of America.

**B. Whether This Court Violated the Amendments to the Constitution of the United States of America by Impermissibly Deciding Child Custody Rulings Rather than Applying Neutral Principles.**

**C. Relatedly, whether the United States Supreme Court Should Resolve the Conflicting Opinions of Numerous High Courts Across the Nation as to Application of the Child Support Recovery Act of 1992**

## **II. THIS COURT SHOULD GRANT A STAY OF REMITTITUR.**

### **A. This Court Should Conserve Judicial Resources.**

This Court should stay remittitur to conserve Georgia's judicial resources. In its decision dated November 14, 2014 this Court ruled and affirmed three enumerations of error.

If this case is now remitted to the Court of Appeals, prior to a decision by the United States Supreme Court as to Appellant's petition for writ of certiorari, then the Court of Appeals will be required to consider the remaining enumerations of error, even though there is a distinct possibility that the United States Supreme Court will grant certiorari in a case of constitutional significance where this Court's decision was rendered by a vote of 4-3. It is a virtual certainty that, regardless of the ruling by the Court of Appeals on the remaining issues, further review to this Court will be sought. This scenario will result in an inefficient use of scarce judicial resources, and, by itself, warrants a stay of remittitur.

### **B. Appellee Will Sustain Irreparable Harm.**

This Court should stay remittitur to prevent irreparable harm to Appellant. See, Barnes v. E-Systems, Inc. Group Hosp. Medical & Surgical Ins. Plan, 501 U.S. 1301, 112 S.Ct. 1

(1991)(finding irreparable harm must be considered when deciding whether to stay judgment). In the event of remittitur to the Court of Appeals and subsequently to the trial court, Appellant will immediately be subject to injunctive relief ordered by the trial court, including incarceration when there is no ability to pay child support and lose custody of her daughter. By its terms, the trial court's order is effective upon remittitur. Therefore, absent a stay, Appellant will be deprived of her rights to visit with her child, but also during a time period when it will be pursuing a petition for writ of certiorari to the United States Supreme Court, challenging the very constitutionality of such injunctive relief. As a result, this Court should stay remittitur to prevent irreparable harm.

**C. The Rights of a Mother Being Incarcerated When She Has No Ability to Pay and a Change of Child Custody during a Contempt Motion Must Be Preserved.**

As a matter of equity, this Court should stay remittitur in order to preserve the mother and daughter relationship and retain the Appellant's rights of freedom while the full appellate process is exhausted. *Barnes v. E-Systems, Inc. Group Hosp. Medical & Surgical Ins. Plan*, 501 U.S. 1301, 112 S.Ct. 1(1991)(finding that equitable factors may be considered when deciding whether to stay judgment). It is undisputed that Appellant is entitled to pursue relief at the United States Supreme Court. 28 U.S.C. § 2101. In the event of interim remittitur to the trial court, the Catoosa County Court will reprimand the Appellant to be incarcerated with no ability to pay a purge and lose custody of her daughter. This Court should stay remittitur in order to prevent such an inequitable result.

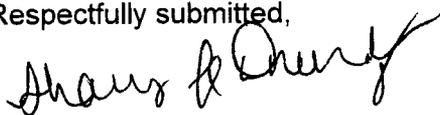
Therefore, a stay is imperative to preserve the potential rights and obligations of all parties, pending exhaustion of the full appellate process.

**D. A Stay Will Serve the Public Interest.**

This Court should grant a stay of remittitur to serve the public interest. Barnes v. E-Systems, Inc. Group Hosp. Medical & Surgical Ins. Plan, 501 U.S. 1301, 112 S.Ct. 1 (1991)(finding that the interests of the public may be considered when deciding whether to stay judgment). As evidenced by the numerous amicus curiae filings in this Court, many citizens of this State have a vested interest in the outcome of this appeal. Thousands of woman will lose custody of their children due to having a mental handicap and be incarcerated without an ability to pay throughout the State will be impacted by this Court's ruling.. A stay of remittitur in this case, while Appellant pursues her petition for writ of certiorari to the United States Supreme Court, will serve the public interest by ensuring that irreparable harm and adverse consequences do not befall Appellant or the numerous other women and mothers similarly situated and evidenced by amicus curia appearing in this appeal. As a result, this Court should grant Appellant's motion to stay remittitur.

This 30th day of March, 2015.

Respectfully submitted,



Shary F. Drawdy

**Pro-Se**

711 Signal Mountain Road #135

Chattanooga, Tn. 37405

**CERTIFICATE OF SERVICE**

I certify that I have this day served Robert Stultz, attorney for Appellee Erik S. Hullender with a copy of this notice of intention to apply for certiorari by mailing a copy first class mail postage prepaid to him at 376 Cloud Springs Road, P.O. Box 5786, Fort Oglethorpe, Georgia 30742

This the 30th day of December, 2015

Shary F. Drawdy  
Shary F. Drawdy

**FILED IN OFFICE**  
APR 30 2015  
CLERK, COURT OF  
APPEALS OF GEORGIA

**RECEIVED IN OFFICE**  
2015 MAY 11 AM 8:55  
CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GA