

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

January 9, 2015

To: Mr. Val Jerome Ealey, GDC386979, Dooly State Prison, Post Office Box 750, Unadilla, Georgia 31091

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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

- There is no case pending in the Court of Appeals of Georgia under your name. I am returning the Motion - Request to Proceed In Forma Pauperis and Request for Intervention Order and Instructions to the Trial Court to Send Up Case for Appellate Review.**
- A Notice of Appeal is filed with the clerk of the trial court and not with the Court of Appeals of Georgia. See OCGA §5-6-37.** Once the trial court clerk has received and filed the Notice of Appeal, the trial court clerk will prepare a copy of the record and transcripts as designated by the Notice of Appeal and transmit them to this Court. Once the Notice of Appeal is docketed in the Court of Appeals of Georgia, a Docketing Notice with the Briefing Schedule and other important information is mailed to counsel for the parties or directly to the parties, if the parties are representing themselves. You do not need to provide this Court with a copy of the Notice of Appeal you filed with the superior court.
- The Notice of Appeal must include a proper Certificate of Service.** A Certificate of Service must show service to the opposing counsel and contain the counsel's full name and complete mailing address. The opposing counsel must actually be served with a copy of your filing.
- An Application for Writ of Habeas Corpus should be filed in the superior court of the county in which you claim you are illegally detained.** An appeal from a denial of an Application for Writ of Habeas Corpus is to the Supreme Court and not the Court of Appeals.
- An Application for Writ of Mandamus should be filed in the superior court of the county official whose conduct you intend to mandate.** An appeal from a denial of an Application for Writ of Mandamus is to the Supreme Court and not the Court of Appeals.
- Your appeal was disposed by opinion (order) on _____.** The Court of Appeals _____ The remittitur issued on _____ divesting this Court of jurisdiction. The case decision is therefore final.
- Your mailing/documents indicate that you intended to file your papers in another court rather than the Court of Appeals of Georgia.** The address of the Clerk of the _____ is:
- If an attorney has been appointed for you and you are concerned with the representation provided by that attorney, you should address that issue to the trial court.** As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.
- A request for an out-of-time appeal should be made to the trial court from which you are appealing.** If your motion is denied by the trial court, you can file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

January 4, 2015

From: Val Jerome Ealey, Appellant

To: Clerk of The Court of Appeals of Georgia

Re: Enclosed Exhibits "A" through "F"

I have been advised by the prison Law Library supervisor that he, not the prison administration, cannot provide or make copies of any legal documents for inmates (prisoners) unless there is an order from the courts.

Because I am unable to make copies of my exhibits, "A" through "F," attached to the enclosed motion, I was not able to attach a copy of the exhibits to the enclosed three copies of my motion for each justice.

Also, because the enclosed exhibits, "A" through "F," are the only copies I have of those documents, I am left without a record (copies) of those documents.

Will you please, if I am granted in forma pauperis status, return me a copy of exhibits "A" through "F" so that I will have them for my record.

Your assistance is very much appreciated

Sincerely
Val Ealey

RECEIVED IN OFFICE
2015 JAN -8 PM 2:12
CLERK OF COURT ADMINISTRATOR
COURT OF APPEALS OF GA

IN THE COURT OF APPEALS FOR THE
STATE OF GEORGIA

VAL JEROME EALEY

Docket No. _____

-VS-

STATE OF GEORGIA

MOTION-REQUEST TO PROCEED IN FORMA PAUPERIS, AND
REQUEST FOR INTERVENTION ORDER, AND INSTRUCTIONS
TO THE TRIAL COURT TO SEND UP CASE FOR APPELLATE REVIEW

Comes now Val Jerome Ealey, appellant in the above-styled action, and respectfully moves this Honorable Court to allow him to proceed in Forma pauperis on appeal from the denial of his Motion In Arrest Of Judgement Pursuant to D.C.G.A. 17-9-61, and D.C.G.A. 17-9-4-Void Judgement, which was filed in the Superior Court of Clayton County; Case No. 2008-CR-01875-5. (See attached Exhibit "A").

Said motion was denied by the Honorable Judge Albert B. Collier, on October 17, 2014, for lack of jurisdiction. (See attached Exhibit "B").

A timely Notice Of Appeal and Request To proceed in Forma pauperis was filed. (See attached Exhibit "C").

Appellant's Request to proceed in Forma pauperis was subsequently denied on November 11, 2014. (See attached Exhibit "D").

The appellant filed a second Request to Proceed In Forma pauperis. (See attached Exhibit "E"); which was subsequently denied on December 4, 2014. (See attached Exhibit "F").

The appellant submits that he has been incarcerated for more than five and a half years and is clearly indigent as a matter of law and fact. (See attached Request to Proceed In Forma pauperis styled in this Court in support of the instant motion).

ARGUMENT

The trial court has abused its discretion in denying appellant's motion, attacking a void judgment pursuant to D.C.G.A. 17-9-4, on the basis of lack of jurisdiction; and also abused its discretion in denying appellant's motion to proceed in forma pauperis to seek review of the trial court's denial of said motion.

The motion that this appellant seeks review of is directly appealable as a matter of right. See D.C.G.A. 5-6-34(a)(1) and (d). Also, in Harper v. State, 286 Ga. 216 (2009), the Ga. Supreme Court held that "Prior to Chester v. State, 284 Ga. 162 (2008), in order to challenge a conviction after it had been affirmed on direct appeal, defendants were required to file an extraordinary motion for new trial - D.C.G.A. 5-5-41; a motion in arrest of judgment - D.C.G.A. 17-9-61, or a petition for habeas corpus. A majority ruled otherwise in Chester, holding that D.C.G.A. 17-9-4 allows criminal defendants to challenge their convictions at any time by filing motion or pleading alleging their conviction is void."

CONCLUSION

The appellant respectfully request that This Court intervene in the trial Court and issue an order that he be allowed to proceed on appeal in Forma pauperis in the trial Court, and that pertinent parts of the record be sent up for appellate review.

Wherefore, the appellant prays that this Honorable Court will grant this motion and order the trial Court to allow him to appeal said motion in Forma pauperis.

This 1st day of January, 2015,

Submitted By:

Val Ealey

Val J. Ealey - pro se

GDC # 386979

Dooly State Prison