



Court of Appeals of Georgia

December 15, 2015

TO: Mr. Frederico A. Espinal, GDC1280712, Lee State Prison, 153 Pinewood Road,
Leesburg, Georgia 31763

RE: **A15A1593. Frederico Andres Espinal 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 November 13, 2015. The remittitur issued on December 4, 2015, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

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 or around _____.

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 APPEAL COURT
STATE OF GEORGIA

FREDERICA ANDRES ESPINAL
Appellant,

CASE NO.: A15A1593

V.

STATE OF GEORGIA,
Appellee.

2015 DEC 9 PM 8:14
COURT OF APPEALS
STATE OF GEORGIA

MOTION FOR LEAVE TO FILE A
MOTION FOR RECONSIDERATION.

The Appellant (FREDERICA ANDRES ESPINAL) did not receive the of Appeals Courts November 13, 2015 decision until December 3rd 2015 at Lee State Prison. Therefore, Appellant should be given leave to file this his MOTION FOR RECONSIDERATION.

#1

On December 3rd 2015 at approximately 9:15 A.M. the Appellant was called up to the legal mail room, and given an explanation for why his legal mail was late being delivered to him. The Legal Mail clerk said that the appellants legal mail had fallen through the cracks on the desk. Therefore, as soon as she noticed the legal letter she called for the appellant. (See Exhibit# 1)

#2

The Appellant asked for the Legal mail clerk to please "time and date" stamp file the documents. While the Legal mail clerk did not have a time stamp, she did stamp the date that the legal envelope was handed to the Appellant. The Appellant also asked the clerk for permission to stamp the Courts decision and it was granted.(See Exhibit# 2)

#3

The Law clerk has agreed to answer any questions from the Court of Appeals.

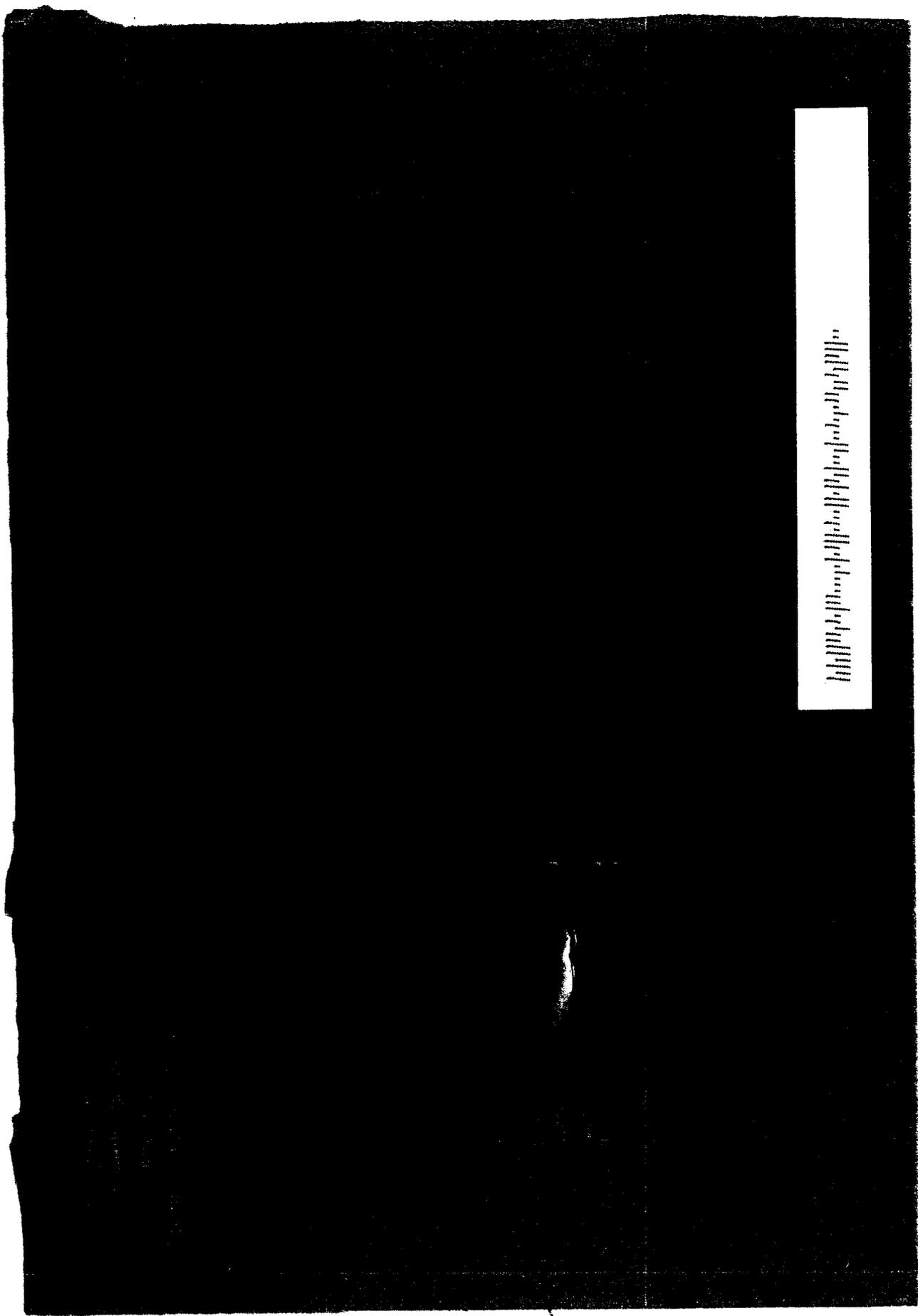
Conclusion

Therefore, the Appellant ask this court for an additional ten days (10) to file a Motion For reconsideration. The Appellant has set forth the facts that he feels should grant him leave to file a Motion For Reconsideration. The Appellant will wait on the Court to respond to this his motion before filing his Motion For Reconsideration.

Done this 4th day of December 2015

Fredrica A Espinal

E XH11511# A or 1



SECOND DIVISION
ANDREWS, P. J.,
MILLER and BRANCH, JJ.

NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
days of the date of decision to be deemed timely filed.
<http://www.gaappeals.us/rules>

November 13, 2015

NOT TO BE OFFICIALLY
REPORTED

In the Court of Appeals of Georgia

A15A1593. ESPINAL v. THE STATE.

BRANCH, Judge.

Over one year after his guilty plea for trafficking in cocaine, Frederico Andres Espinal filed multiple post-conviction motions, including a motion for out-of-time appeal. The trial court denied the motions, and Espinal appealed.¹ For the reasons that follow, we affirm.

The record shows that on October 12, 2011, Espinal and a co-defendant were indicted on charges of felony murder, trafficking in cocaine, and aggravated assault arising out of a shootout that occurred on April 8, 2010 when a drug transaction turned deadly. On January 18, 2013, while represented by counsel, Espinal entered

¹ The denial of a motion for an out-of-time appeal is directly appealable, *Lunsford v. State*, 237 Ga. App. 696 (515 SE2d 198) (1999), and therefore this Court granted Espinal's application for discretionary appeal.

RECEIVED
DEC - 3 2015

CERTIFICATE OF SERVICE

This is to certify that I have this day served the a true and correct copy of the foregoing Motion for Leave to file a Motion for by placing the same in the United States mail with adequate postage affixed and addressed to: Reconsideration.

Daniel J Porter & Robby A. King
Office of the District Attorney
75 Langley Drive
Lawrenceville, GA 30046

This 4th day of December 20 15

Frederico A Espinal

Frederico A. Espinal
EOC# 1280712
Lee State Prison
153 Pinewood Rd
Leesburg, GA 31763