



Court of Appeals of Georgia

TO: Mr. Andrew Evans, GDC1513138, Clayton County Detention Center, 9157 Tara Boulevard, Jonesboro, Georgia 30236

RE: **Motion for Out-of-Time Appeal**

MOTION FOR OUT-OF-TIME APPEAL - RETURN OF MOTION

- 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.

Andrew Evans

Case # 2014CR06064-MG

vs

State of Georgia

Motion
for
Out of time Appeal

RECEIVED
2015 MAR 18 PM 3:40
CLERK OF SUPERIOR COURT
JAMES O'BRYEN

I'm writing this motion asking the court to allow me an out of time appeal. I filed for appeal on my own in July 2014 but after filing and the 30 days expired I found out I filed wrong. When I attempted to contact my public defender Jonathan Rosenberg to file for appeal I never heard from him nor his office. This being the reason to file on my own. I have no legal knowledge but I fill as if I was tricked and treated unfair.

I'm filing for appeal on grounds of ineffective assistance of counsel and a unfair court hearing. On June 30 2014 I was sentenced to twelve months on charges of escape and obstructing an officer. Prior to being sentenced I spoke with Mr Rosenberg, he informed me the DA was will to drop the escape charge if I would plea guilty to obstructing an officer. I told Mr Rosenberg I except the plea after he explained the arrangements, not sure the exact day but 200 something days to plea guilty to obstructing an officer and the escape was to be dropped. Mr Rosenberg then highlighted to show I plea guilty to obstructing an officer and signed his name in section four of plea statement. After words he slid me the plea to sign, I signed what I thought was a negotiated plea.

See Attachment

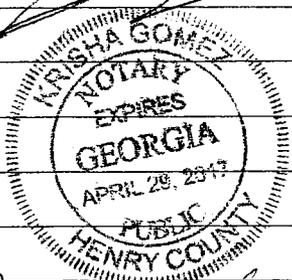
However several months later I wrote the court clerk under the freedom of information act, asking for certain information. What I recieved was a accusation paper, a copy of my sentencing, and a copy of my plea which is forged. It says I pleaded guilty both escape and the obstructing an officer charges. Which when I signed and last seen the plea nothing was highlighted saying anything about me pleading guilty to escape, the escape charge was left blank. It goes on to say I entered a non-negotiated plea, again was blank when I signed and last seen the plea statement. I dont understand how I can enter two different pleas for the same charges, on the same plea statement. Then in the bottom were it says acceptance of plea the judge, Judge Garrett signed were he accepts my plea. In his ruling he clearly states he's not accepting any plea and sentences me to twelve months in Clayton County Jail.

Once in the courtroom everything changed, Mr Rosenberg was like a totally different person. He no longer tried to help or speak in my defence. I fill like he tricked me into signing a plea, telling me there was no grounds for the escape charge it would be best to plea out to the obstructing an officer charge. He Mr Rosenberg told the judge I entered a non-negotiated plea, which is a lie. When I asked Mr Rosenberg what was going on he told me to be quiet, he has everything under controll. Anytime I would let Mr Rosenberg know the DA would say something wrong he would shrug me off. Mr Rosenberg seemed to have no interest in this case, nor giving me the proper defence Im intitled to. When I explained to Mr Rosenberg that I suffered from massive brain trauma shortly before I caught my charges and dont remember running or what happened when I caught my charges Mr Rosenberg had no interest.

(2 of 2)

What little bit Mr Rosenberg did was brief and with no effort at all. Mr Rosenberg was no help to me I fill he did more harm then good. Im not wanting to have my time reduced, Im asking to resieve a fair hearing or have my charges reduced or dropped.

I dont believe Im able to have the right to a fair hearing in this county, based on a past relationship I had with Elizabeth Braswell. Which come to find out is the daughter of Judge Morris Braswell here in Clayton County. My whole ordeal here has to do with Miss Braswell. The case at hand case # 2014CR06064-MG is from a tpo hearing on June 11 2014 were Miss Braswell put a tpo order against. I was refused the right to counsel by Judge Brown in this hearing case # 2014-PO-01986-C9. I believe Judge Braswell has had a inpect in my case, along with my case re-veling around the judges daughter is a big reason why Iu been treated unfair in this matter. Thank you for you time in this matter.



Andrew Eard
3/11/15

March 11, 2015

RECEIVED & FILED

JAN 12 2015

Neil Carson
CLERK STATE COURT
CLAYTON COUNTY

January 8, 2015

Dear, whom this may concern. My name is Andrew Evans
LE #1513138 DOB Sep 15, 1988. I'm writting this letter under the
Freedom of Information Act. It is my understanding that the first
copy of any document has been paid for by the tax payer's of the
State of Georgia and is free under the Freedom of Information Act.
In as which I'm writting asking for a copy of my plea transcript
for case #2014CR06064. I believe that the plea transcript has
what I need, as far as my plea I signed my indictment, discovery
Pack, and the transcripts from court.



Andrew Evans

March 9, 2015

March 9 2015

Andrew Evans

IN THE STATE COURT OF CLAYTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

vs.

ANDREW CARL EVANS
Defendant(s)

CASE NO. 2014CR06064-MG

RECEIVED & FILED

Jun 27 2014

Shil Carver

CLERK, STATE COURT
CLAYTON COUNTY

ACCUSATION

I, Tasha M. Mosley, as the prosecuting attorney for the State of Georgia and Clayton County, on behalf of the people of the State and County do hereby charge and accuse **ANDREW CARL EVANS** with the offense of **ESCAPE**, for that the accused, on the 11th day of June, 2014, in Clayton County, Georgia, did intentionally escape from lawful custody prior to conviction.

COUNT 2

The prosecutor hereby further charges and accuses **ANDREW CARL EVANS** with the offense of **OBSTRUCTING AN OFFICER**, for that the accused, on the 11th day of June, 2014, in Clayton County, Georgia, did knowingly and willfully obstruct and hinder M. Knox, a law enforcement officer, in the lawful discharge of his official duties.

Contrary to the laws of this state, the good order, peace and dignity thereof.

This 27th day of June, 2014.

7/14

Solicitor General

ARRAIGNMENT

BENCH TRIAL VERDICT

Comes now the undersigned, the defendant herein, and acknowledges receipt of a copy of this accusation, and waives benefit of counsel, formal arraignment, trial by jury, and pleads NOT GUILTY.

The Court, having heard the evidence adduced at trial without a jury, finds the Defendant (GUILTY) (NOT GUILTY).

This _____ day of _____, _____

JUDGE, State Court of Clayton County Date: _____

Defendant

A copy of this accusation was provided to the Defendant.

Defendant's Counsel

Date: _____

Assistant Solicitor

Court Date: _____ (9:00 AM) (1:30 PM) Received _____

IN THE STATE COURT OF CLAYTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA
VS.
ANDREW CARL EVANS

CASE NO. 2014CR06064-MG

PLEA STATEMENT - PAGE 1 OF 1

I am the defendant named above. I am mentally competent to make this statement. I am charged with the offense(s)

RECEIVED & FILED

JUN 30 2014

Hail Caruso
CLERK STATE COURT
CLAYTON COUNTY

ESCAPE - Count 1

I hereby enter my plea of (GUILTY) [NOLO CONTENDERE] to this charge.

OBSTRUCTING AN OFFICER - Count 2

I hereby enter my plea of (GUILTY) [NOLO CONTENDERE] to this charge.

I understand that I may plead not guilty to any charge against me. If I plead not guilty, the law gives me (1) the right to a speedy and public jury trial; (2) the right to see, hear, and cross-examine all witnesses called against me; (3) the right to use the power of the court to subpoena witnesses and evidence to be used to defend me; (4) the right to have a lawyer to assist me at all stages of the proceedings; (5) that I do not have to testify or produce evidence against myself; (6) that I have the right to have the State prove my guilt beyond a reasonable doubt, and until that is done, I am presumed innocent. I understand that if I cannot afford to hire an attorney, that the Court may appoint an attorney to represent me without cost to me.

I understand that the law provides that a sentence could be imposed that could include 12 month's imprisonment and a fine of up to \$5,000.00. I also understand that by entering a plea of guilty or nolo contendere, the Court may sentence me as if I had stood trial and been convicted by a jury. I understand that the Court may make my sentences run consecutively, that is, one after the other.

I understand that a lawyer may be able to discover a defense to the charge(s) pending against me, or could offer evidence which may aid insofar as sentencing is concerned. Nevertheless, I have read the accusation against me, understand the nature of the charges against me and the consequences of my plea, and I freely and voluntarily waive my right to counsel.

I am represented by Jonathan Rosenberg (L+H) Attorney-at-Law. I have told my lawyer all the facts and circumstances that I know about the charges in this accusation. I believe that my lawyer is fully informed on all such matters. My lawyer has counseled me and advised me on the nature of these charges and on all possible defenses that I may have in this case. I believe that my lawyer has competently done all that anyone could to counsel and assist me, AND I AM SATISFIED WITH THE ADVICE AND GUIDANCE HE OR SHE HAS GIVEN ME.

My date of birth is 9/15/88 and I have 12 years of education. I am a United States Citizen. I understand that if I am not a United States Citizen, a conviction may impact my immigration status and ability to lawfully remain in this country.

No one has made any promise of any kind to me, or within my knowledge, to anyone else that I will receive a lesser sentence, or probation, or any form of leniency if I enter this plea. I am not under the influence of any drugs, or intoxicants of any kind. I understand that the Judge is not bound by any recommendation or negotiations. The Judge may impose a lesser sentence, a greater sentence, or may accept the recommendation.

I am entering this plea freely and voluntarily, of my own accord, and with full understanding of all the matters set out in the accusation and in this plea statement, and this plea is done with the advice and consent of my attorney, if any.

You have the right to appeal from the judgement and sentence in this case. A notice of appeal must be filed within thirty days. You also have the right to file a petition for a writ of habeas corpus within one year.

I have read and understand the above plea statement. I am signing this plea statement in the presence of the Court.

This 30 day of June, 2014.

I am counsel for the Defendant in this case. By my signature below, I certify that I know of no reason that the Defendant's tendered plea should not be accepted by the Court.

Andrew Evans
Defendant

[Signature]
Defendant's Attorney

Negotiated Plea

Non-negotiated Plea

ACCEPTANCE OF PLEA

The above statement having been made by the Defendant in the presence of the Court, the foregoing rights afforded the Defendant having been personally read to the Defendant by the Court, the Court being satisfied that the Defendant understands all rights applicable to him/her, all the consequences of his plea, that the plea is entered knowingly, freely and voluntarily, and there having been a sufficient factual basis shown for the acceptance of this plea, IT IS HEREBY ORDERED that the Defendant's plea be accepted.

This 30 day of June, 2014

Court Reporter _____

[Signature]
Judge, State Court

IN THE STATE COURT OF CLAYTON COUNTY
STATE OF GEORGIA

May Term, 2014

Criminal Action No. 2014CR06064-MG

STATE OF GEORGIA vs. ANDREW CARL EVANS

COUNT I ESCAPE

WHEREAS, the defendant in the above-styled count PLED guilty to the offense stated herein, and said plea being accepted by the court, it is considered, ordered and adjudged that the defendant be confined for a term of Twelve (12) Months in the Clayton County jail or other place as the defendant may legally be confined, such time to be computed as provided by law. The defendant shall pay a \$50 application fee for appointed counsel as provided by law.

COUNT II OBSTRUCTING AN OFFICER

WHEREAS, the defendant in the above-styled count PLED guilty to the offense stated herein, and said plea being accepted by the court, it is considered, ordered and adjudged that the defendant be confined for a term of Twelve (12) Months in the Clayton County jail or other place as the defendant may legally be confined, such time to be computed as provided by law. The defendant shall pay a \$50 application fee for appointed counsel as provided by law.

A violation of a condition of this sentence authorizes the Court to revoke the probation or suspension of the sentence, and you may be required to serve up to the balance of the sentence in confinement if your probation or suspended sentence is revoked by the Judge after a hearing. You have the right to appeal from the judgment and sentence in this case. A notice of appeal must be filed within thirty days. You also have the right to file a petition for a writ of habeas corpus within 180 days for a traffic offense, or within one year for other misdemeanors.

SO ORDERED, this 30th day of June, 2014.
SEE ATTACHED ADDENDA, IF ANY.



Michael T. Garrett
Judge, State Court
Clayton Judicial Circuit

RECEIVED & FILED

JUN 30 2014



CLERK, STATE COURT
CLAYTON COUNTY