

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

August 10, 2015

To: Mr. Lavar Ferrell, GDC865644, Autry State Prison, Post Office Box 648, Pelham, Georgia 31779

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.
- 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.

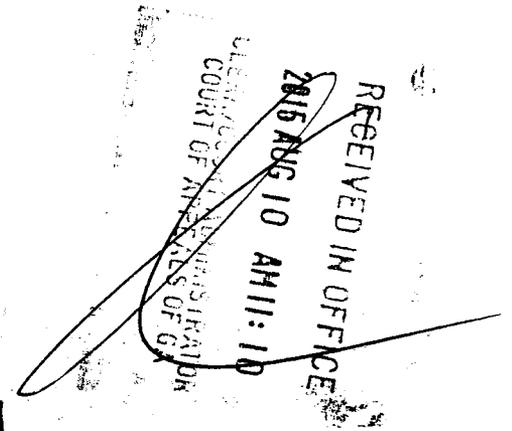
In The Superior Court of Clayton County  
State of Georgia

Lavar Ferrell,  
Appellant,

Indictment No. 2011-CR-0286-c

V.

State of Georgia,  
Appellee,



Notice of Appeal

Notice Is Hereby given that Appellant, PRO se, above-named, Appeals to the Court of Appeals of Georgia from the orders of this Court entered herein on the 20<sup>th</sup> day of July, 2015, denying Appellant's Out-of-Time motion to withdraw Guilty Plea.

A. Jurisdiction

The Court of Appeals of Georgia has proper jurisdiction over this matter as this is an appeal from the final judgement of a Georgia Superior Court in a non-Capital felony case, and it does not fall within any area designated to be heard before the Supreme Court of Georgia under Art. VI, Sec VI, Para. III of the Constitution of 1983.

Jurisdiction of this Category of Appeal is Conferred upon this Court order under the provisions of Art. VI, Sec. VI, Para. III, of the Georgia Constitution of 1983.

Will the Clerk of Court please transmit all documentary evidence and transcripts to the Court of Appeals of Georgia, omitting nothing thereof, and provide Appellant with a copy of same for the purpose of this Appeal.

This 4<sup>th</sup> Day of AUGUST, 2015

Lavar Ferrell

Lavar Ferrell, ProSe, #865644  
Astry State Prison, D-3 #666  
P.O. Box 648  
Pelham, Georgia 31779

## B. Enumeration of Error

1. The trial Court erred and abused its discretion in denying Appellant's Out-of-Time Motion To withdraw Guilty Plea.

2. The trial Court erred and abused its discretion in its ruling that it lacked jurisdiction to entertain Appellant's Out-of-time motion to withdraw plea where O.C.G.A. Sec. 17-7-93(b); U.S.C.R. 33.12, Wright V. Hall, 638 S.E. 2d 270 (2006), and Kaiser V. State, 285 GA. App 63, 643 S.E. 2d 84 (2007), fully support Appellant's motion for review.

## Certificate of Service

This is to certify that I have this day served the within and forgoing Notice of Appeal upon the Clerk of Court, Superior Court of Clayton County, 9151 Tara Blvd, Jonesboro, Georgia 30236-4912, by mailing a true and correct copy of same, postage prepaid, in a properly sealed and addressed envelope, with adequate postage thereto.

### Additional Person(s) Served:

Mr. Mark Thurston  
District Attorney  
Clayton County Justice Center  
9151 Tara Blvd.  
Jonesboro, Georgia 30236-4912

Clerk of Court  
Court of Appeals of Georgia  
334 State Judicial Building  
Atlanta, Georgia 30334

This 4<sup>th</sup> day of AUGUST, 2015

Lavar Ferrell  
Lavar Ferrell, Pro Se