



Court of Appeals of Georgia

March 2, 2015

TO: Mr. Toreanto D. Finch, GDC#836363, Jefferson County Correctional Institution, 1159 Clarks Mill Road, Louisville, Georgia 30434

RE: **Certificate of Probable Cause to Appeal**

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 _____ on _____. The remittitur issued on _____, 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 _____.

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.



2015

Georgia Court of Appeals

RULES

Last Update: January 21, 2015

IN THE APPELLANT COURT
OF FULTON COUNTY
STATE OF GEORGIA

RECEIVED IN CL
2015 FEB 27 PM 2
COURT OF APPEALS OF

TORRANTO D. FINCH
V.S.
STATE OF GEORGIA

APPEAL NO.

CERTIFICATE OF
PROBABLE CAUSE TO APPEAL

1. On September 4th 2014 Judge William McClain revoked the balance of my probation which was 64 months. March 29 2014 I allegedly committed the crime of poss. with intent case #14CR473. These charges in case 14CR473 are the reason Judge McClain says he revoked my probation. There was no proof I possessed any contraband and I did not admit to the accusations at any time before or during the revocation hearing. I was not allowed to speak at all and the officer stated at the hearing he assumed the contraband belonged to me and I possessed it. The person that lived at the residence stated at the hearing the jacket where the contraband was found had been there hours before I arrived at the residence and that it did not belong to me.
2. A mere occupant, as distinguished from a resident, does not have the requisite control over the premises to authorize the inference that he or she possesses all property found there on; if such were the case

a person's mere presence at the scene of the discovery of illegal drugs would authorize his or her conviction, and that plainly is not the Law. Proof of constructive possession, however, should connect the accused to the contraband it must consist of something more than mere spatial proximity, especially where the contraband is hidden. Circumstances showing an intent to exercise control over drugs, so as to establish constructive possession of the drugs, including a defendant's attempts to flee or elude police, inconsistent explanations by the defendant for his behavior, the presence of significant amounts of contraband and drug paraphernalia in plain view, the possession of large amounts of cash, other indicia of the sale of drugs or drug related paraphernalia, such as scales, baggies, are ledger, evidence that the defendant was under the influence of drugs, or drug residue found on the defendant. Evidence merely showing that contraband was found in a jacket that did not belong to me on a porch shared by two apartments and neither apartment being owned or leased by me is simply insufficient to prove I had constructive possession, especially where the contraband was hidden inside a jacket that didn't belong to me and where other person's had equal access to the contraband and therefore an equal opportunity to commit the offense

3. The plaintiff is no lawyer and has no knowledge of how to go about filing a appeal. Plaintiff's

attorney at the probation hearing Sean Goldstein said that I wouldn't get appointed counsel for the appeal, I would have to hire a attorney or file the appeal myself. Plaintiff had no idea the steps to filing a desreccionary appeal, he was denied access to the law library in Douglas County Jail and was shipped to Jackson state Prison on the 18th day of september, 2014 there I put in numerous request to gain access to there law library which I never got a reply are allow to go to it. On Oct, 7 I was transfered to Jefferson County CI which is a work camp and the law library here is not sufficient and there is no one to assitt me in filing a desreccionary appeal, Plaintiff had no idea of how to file a desreccionary appeal so the only option was to file a habeas Corpus 1:14-cv-3788-MHC in the United States District Court which was dismissed for failure to exhaust state remedies and denial of a certificate of appealalability under 28 U.S.C. §2253(c). With what little knowledge the plaintiff has wrote motions to get back in front of Judge McClain to see ~~him~~ if he reconsider revoking my probation, Plaintiff is indegent and has no ability to pay for the Clerk's Certificate & Seal-Record and Transcript's in the appeal of case 04CR00795

Respectfully Submitted

Certificate of Service

The appeal is asked to file the above appeal and forward filed copy's to the Honorable Judge, District Attorney, and the defendant. Request show be sustained and granted

This 22 day of February, 2014

[Signature]
Toreando Frach



This 23rd day of February, 2015

Catherine Matthews
Notary Public