

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

August 20, 2015

To: Mr. Courtney Fuller, 5075 Memorial Drive, #332, Stone Mountain, Georgia 30083

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.

**NOTICE OF APPEAL**

IN THE STATE COURT  
OF CLAYTON COUNTY  
STATE OF GEORGIA

THE STATE OF GEORGIA  
VS  
COURTNEY FULLER

**Case Number 2015CR00179 D - Ruling on Supersedeas Bond**

RECEIVED IN CLERK'S OFFICE  
2015 AUG 18 PM 2:56  
CLAYTON COUNTY STATE COURT

**NOTICE OF APPEAL**

Notice is given that COURTNEY KIRK FULLER in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court entered on the 22<sup>nd</sup> day of July 2015.

The clerk shall remit the drug and alcohol abuse evaluation done by A1 Driving School sent to Clayton County Probation Offices in relation to this case.

A transcript of evidence and proceedings WILL NOT be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is A MISDEMEANOR and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

**CERTIFICATE OF SERVICE**

I certify that I have this day served the Attorney of the CLAYTON COUNTY STATE COURT with a copy of this Notice of Appeal by mailing a copy first class mail postage prepaid to him/her at:

**THE STATE COURT OF CLAYTON COUNTY  
9151 Tara Boulevard  
Room 1CL181  
Jonesboro, GA 30236  
ATTN: Adrienne Nash**

This the 17 day of 8, 2015.

Courtney Fuller (Sign your name.)

**Discretionary Application for Appeal**

This is an application for appeal for the action taken in the following proceeding:

The State of Georgia  
9151 Tara Boulevard  
Room 1CL181  
Jonesboro, GA 30236

Vs.

Courtney Kirk Fuller  
5075 Memorial Drive #332  
Stone Mountain, Ga 30083

**Case Number 2015CR00179 D**

*Order on Supersedeas Bond*

Court of Appeals Docket Number \_\_\_\_\_

In the Clayton County State Court in the State of Georgia, Case Number **2015CR00179 D** Ruling on Supersedeas Bond, I Kirk Fuller hereby beseech the Court of Appeals to review this ruling on the following grounds:

***Jurisdiction of Court of Appeals***

The Court of Appeals has jurisdiction to hear this appeal according to Georgia Constitution Article VI. Section V. Paragraph III stating:

*The Court of Appeals shall be a court of review and shall exercise appellate and certiorari jurisdiction in all cases not reserved to the Supreme Court or conferred on other courts by law. The decisions of the Court of Appeals insofar as not in conflict with those of the Supreme Court shall bind all courts except the Supreme Court as precedents.*

This case is a misdemeanor conviction as defined by Georgia Statute and the court of Appeals has jurisdiction in that it is not reserved to the state superior court for ruling.

***Background***

Fuller filed a motion for supersedeas bond in the trial court. The trial court granted the motion on July 22, 2015, imposing as conditions that Fuller must abstain from the use of alcohol and illegal drugs; that Fuller must report to Clayton County Probation, which will administer random alcohol and drug tests; and that Fuller must undergo an evaluation for treatment for substance abuse.

***Arguments for Appeal***

The trial court erred in its ruling for supersedeas bond that as a condition that this Appellant report to Clayton County Probation to issue random drug and alcohol tests because of the Probation Officer's failure to submit to the court an evaluation done by A1 Driving School prior to the ruling on the supersedeas bond. This appellant contends that had such evaluation been submitted to the court for review, in which the this Clayton County approved evaluator reported to Clayton County Probation that the appellant did not need to be treated for drug and alcohol abuse, prior to its ruling granting supersedeas bond, that such condition would not have been entered. Therefore, this appellant hereby beseeches the Court of Appeals to vacate the special condition of reporting to Clayton County Probation and also to remove its directive to administer random drug and alcohol tests until the resolution of this appeal. This appellant asks the Courts of Appeals to leave the remaining provisions of the supersedeas bond order intact.

Pray Ye,



**Courtney Kirk Fuller**

**(678) 740-2933**

**5075 Memorial Drive #332**

**Stone Mountain, Ga 30083**

PAUPER'S AFFIDAVIT  
COURT OF APPEALS  
STATE OF GEORGIA

COURTNEY K. FULLER  
VS.  
THE STATE OF GEORGIA

Case Number 2015CR00179 D

RECEIVED IN OFFICE  
2015 AUG 18 PM 2:55  
CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GA

PAUPER'S AFFIDAVIT

Comes now COURTNEY KIRK FULLER (Appellant's name) first being duly sworn, deposes and states I am financially unable to pay the filing fee required for filing costs in THE COURT OF APPEALS STATE OF GEORGIA and I request I be permitted to file this discretionary application appeal to the supersedeas bond order Case Number 2015CR00179 D without having to pay filing fees. I further swear that the responses which I have made to the questions and instructions below are true.

1. Are you presently employed?  Yes  No  
If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer:

\_\_\_\_\_

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: \_\_\_\_\_

\_\_\_\_\_

2. Have you received within the past twelve months any money from any of the following sources?

- Business, profession or form of self-employment?  Yes  No
- Pensions, annuities or life insurance payments?  Yes  No
- Rent payments, interest or dividends?  Yes  No
- Gifts or inheritances?  Yes  No
- Any other sources?  Yes  No

If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months: SSA Social Security \$898 per mths.

\_\_\_\_\_

PAUPER'S AFFIDAVIT

page 2

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts)  Yes  No

If the answer is "Yes", state the total value of the items owned: \_\_\_\_\_

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?  Yes  No

If the answer is "Yes", describe the property and state its approximate value: \_\_\_\_\_

5. List the persons who are dependent upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support: Strakuel Fuller  
is my son who live and share with  
me. I'm totally responsible for.

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

(a) A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question.

(b) A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. OCGA §16-10-70.

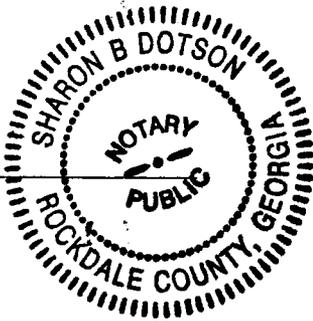
I, COURTNEY KIRK FULLER, do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauper is status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

This the 17<sup>TH</sup> day of August 2015.

COURTNEY K. FULLER

Courtney Fuller

(Sign your name.)  
5075 MEMORIAL DRIVE #332  
STONE MOUNTAIN, GA 30083  
678-740-2933



Sworn to and subscribed before me SEAL

this the 17 day of 8, 2015

Sharon B Dotson Notary Public

**RECEIVED & FILED**

IN THE STATE COURT OF CLAYTON COUNTY **JUL 22 2015**

STATE OF GEORGIA

*Hail Carter*  
CLERK STATE COURT  
CLAYTON COUNTY

State of Georgia )

v. )

CASE NO. 2015CR00179

COURTNEY FULLER, )

Defendant. )

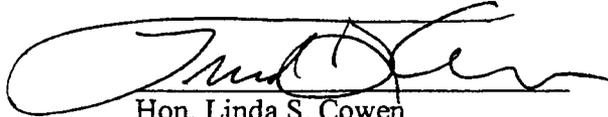
ORDER ON DEFENDANT'S MOTION FOR SUPERCEDEAS BOND

Defendant's Motion for Supercedeas Bond having come on for a hearing, the Court having heard from Defendant and from the State, and the Defendant having submitted a "Pauper's Affidavit", the Court Orders as follows:

Defendant is granted supercedeas bond in the amount of \$5,000 **own recognizance**. However, as a condition of said bond, he is to abstain from the use of alcohol and illegal drugs and is to report to Clayton County Probation, who will continue to do random testing to enforce this provision. Defendant is further ordered as a condition of this bond to do an evaluation for treatment for substance abuse issues with a mental health professional, and do treatment if recommended. Clayton County Probation Department is authorized to impose drug screen fees, but not supervision fees, if the Defendant is being supervised for the bond.

Defendant must "post" this bond with the Clerk in order for the sentence on this case to be stayed.

So Ordered this 22nd day of July, 2015.

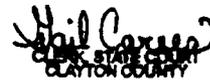


Hon. Linda S. Cowen  
Judge, State Court  
Clayton County, Georgia

cc: Solicitor General  
Courtney Fuller, Defendant  
Clayton County Probation

**RECEIVED & FILED**

JUL 22 2015

  
GAIL CARNES  
CLAYTON COUNTY

I certify that this  
is a true copy of  
the original document.

GAIL CARNES  
Clerk State Court  
Clayton County, Georgia

By   
Deputy Clerk

