

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

March 2, 2015

To: Mr. Russell Gaither, GDC73822 J1-124, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

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. The 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.

COURT OF APPEALS OF GEORGIA

Russell Gauthier,
Plaintiff,

*

*

NOTICE OF APPEALS

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v.

*

APPEAL NUMBER: 14-14846-A

Pullin, et al,
Defendant(s),

*

DISTRICT COURT DOCKET NUMBER:
S:14-LV-00260-MTJ-CW

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RECEIVED IN OFFICE
FEB 27 PM 2:40
COURT OF APPEALS

NOTICE is hereby given that Nurse Pullin, Johnson State Prison; Lieutenant O'Neal, Johnson State Prison; MS. Eason, Counselor, Johnson State Prison; MS. Archer, Mental Health Counselor, Johnson State Prison; Deputy Warden Butts, Johnson State Prison; Nurse John and or Jane Does, Georgia State Prison from 01/28/14 to 02/03/14; Sergeant Farmer, Johnson State Prison; MS. Mytz Hall, Director of nurses, Johnson State Prison; and MS. Verrin Morris, Plaintiff in the above name case, hereby appeal to the Court of Appeals of Georgia (11th Cir. Ct.) (from the final judgment) (from an order Plaintiff filed an Notice of appeal September 24, 2014 with the United States Court of Appeals for the Eleventh Circuit, 50 Forsyth Street north west Atlanta, Georgia 30303.

ON 02/17/15 Plaintiff received legal mail from the United States Court of Appeals for the Eleventh Circuit, stating the Court may lack Jurisdiction over the Appeal, and that the Court is without Jurisdiction and dismissed the case.

JURISDICTIONAL QUESTION

Please address whether that Court has Jurisdiction over this appeal. Fed. R. App. P. 4(a); Jeffersons v. United States, 748 F.2d 1115, 1114 (11th Cir. 2014); Cert. denied, 135 S. Ct. 241 (2014); Green v. Drug Enforcement Admin., 606 F.2d 1246, 1300-02 (11th Cir. 2016). Plaintiff has filed this response(s). Entered for this action on the 20th day of February 2015.

Date: 02/23/15

Russell Gauthier
Russell Gauthier 95822
Johnson State Prison P.O. Box 344
Waynesville, Georgia 30696

Comes Now Plaintiff Russell Baxter #3822, inmate at Johnson State Prison,
Makes this his RETURN AND ANSWERS to UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT 56 FORSYTH STREET NORTH WEST ATLANTA, GEORGIA 30303.

Section 1983 is to bypass racist state court federal judges.

Plaintiff has asked Magistrate Judge Charles H. Wesley to step down off
the bench. He is racist, & have been retaliated by him as well as himself
does not believe in justice. I have proof of what I'm saying.

In 1974, a number of revisions were made to § 455, which fall under the two
subsections (a) and (b), basically § 455 (a) reads any Justice Judge or
Magistrate of the United States shall disqualify himself in any proceeding
in which his impartiality might reasonably be questioned. *In re* *Seberg v.*
Health Services, 486 U.S. 849, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

In finding disqualification under § 455 (a) for conduct raising pressing
reasonable doubts of the Judge's impartiality growing out of judicial
proceedings.

STATEMENT OF ADDITIONAL FACTS

Plaintiff has been in the hole here at Johnson State Prison almost (3) weeks, in
sleeping in my wheel-chair with a mat. I don't sleep on the bed because of the
ants. I complain about it, the official sometimes change the mat, now no one
cares. I'm being retaliated by this Supt. I asked to be transfer, because I
fear for my life. I don't have any access in doing law work.

Differential treatment; esp. a failure to treat all person's equally when no
reason distinction can be found between those favored and those not favored.
[Cases: Civil rights 1033, 1138 C.S.S. Civil rights §§ 18, 20, 23-24, 34, 39-40.]

The eighth amendment's prohibition of cruel and unusual punishment. You
can challenge prison conditions that are unsafe or that deprive you of a
basic human need such as shelter, food, exercise, clothing, sanitation, and
hygiene.

The eighth amendment forbids cruel and unusual punishment and is the
most important amendment for prisoners. It is also the source for your
right to medical care in prison.

VERIFICATION FOR RELIEF

Now Plaintiff has no plain, adequate or complete remedy at law to redress the
wrongs described herein. Plaintiff has been and will continue to be.

DECLARATION UNDER PENALTY OF PERJURY

You must declare under penalty of perjury that the answers you have given in
the attached Motion/Affidavit are true and correct. Giving a false answer
or false information in response to any question will subject you to Federal
perjury charges. 18 U.S.C. § 1621 provides as follows:

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing document(s). Service was made by placing the same in an envelope, and with sufficient postage affixed, place in the U.S. Mail, and on this date mailed to the party's as follows:

(CLEAR)

COURT OF APPEALS OF GEORGIA
224 State Judicial Building Suite 402
40 Capitol Square Atlanta, Georgia
30334-1400

(CLEAR)

UNITED STATES COURTHOUSE
600 James Brown Blvd.
Augusta, Georgia 30901

(CLEAR)

COURT OF APPEALS OF GEORGIA
49 Peachtree Avenue Suite 501
Atlanta, Georgia 30334

Date 02/20/15

Russell Gardner
Russell Gardner 13822
Johnson State Prison P.O. Box 344
Wrightsville, Georgia 31096

Sign this 23rd day of February, 2015.

Please write back soon!

COURT OF APPEALS OF GEORGIA

Russell Baether,
Plaintiff

*

* MOTION FOR APPOINTMENT OF COUNSEL

v.

*

* APPEAL NUMBER: 14-14846-A

Pulliam et al,
Defendant(s).

*

* DISTRICT COURT DOCKET NUMBER:
5:14-cv-00260-MTY-CMW

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Pursuant to 28 U.S.C. § 1915(e)(1) Plaintiff (or Plaintiffs) moves for an order appointing Counsel to represent him in this case. In support of this motion, Plaintiff states:

1. Plaintiff is unable to afford Counsel. He has requested leave to proceed in forma pauperis.
2. Plaintiff's imprisonment will greatly limit his ability to litigate, the issues involved in this case are complex, and will require significant research and investigation. Plaintiff has limited access to the law library and limited knowledge of the law.
3. A trial in this case will likely involve conflicting testimony, and Counsel would better enable Plaintiff to present evidence and cross examine witnesses.
4. Plaintiff has made repeated efforts to obtain a lawyer, with his names, addresses, & have wrote to them asking for Counsel in this matter. (if Confidential). Should be enough.

WHEREFORE, Plaintiff request that the Court appoint Thomas W. Prince III Attorney At Law P.O. Box 2501 Augusta, Georgia 30903-2501

Sign this 23rd day of February, 2015.

These are few of the names Plaintiff wrote to trying to obtain a lawyer, neither respond back.

J. B. Neighbors & Associates Inc. P.O. Box 7363 Athens, Georgia 30604

Prather, Lee W. Attorney At Law Wheeler EXECUTIVE Center 3540 Wheeler Road Suite 514 Augusta, Georgia 30904

King & Spalding 1180 Peachtree Street North East Atlanta, Georgia 30309

John Marshall Law School 1422 West Peachtree Street North West Atlanta, Georgia 30309

Lucy Lu & Associates Law Group one live oak Plaza 3495 Lenox Road Suite 730 Atlanta, Georgia 30326

Foley & Mahmood Attorney & Counselor At Law 855 Peachtree Street Suite 1801 Atlanta, Georgia 30308

CERTIFICATE OF SERVICE

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(CLERK)

COURT OF APPEALS OF GEORGIA
334 State Judicial Building Suite 402
40 Capitol Square Atlanta, Georgia
30334-1400

(CLERK)

UNITED STATES COURTHOUSE
600 James Brown Blvd.
Augusta, Georgia 30901

(CLERK)

COURT OF APPEALS OF GEORGIA
49 Trinity Avenue Suite 501
Atlanta, Georgia 30334

Russell Baxter 73822 31-142
Johnson State Prison P.O. Box 344
Wrightsville, Georgia 31096

Sign this 23rd day of February, 2015.