

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

March 20, 2015

To: Mr. Russell Gaither, #73822, Johnson State Prison, P.O. Box 344, Wrightsville, GA 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.** 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.

COURT OF APPEALS OF GEORGIA

Russell Gauthier,
Plaintiff,

*

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NOTICE OF APPEALS

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v.

*

APPEAL NUMBER: 14-14846-A

Pullin, et al,
Defendant(s),

*

DISTRICT COURT DOCKET NUMBER:
5:14-CV-00260-MTY-LHW

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RECEIVED
FEB 18 AM 4:10
COURT OF APPEALS OF GEORGIA

PLEASE BE ADVISED that Nurse Pullin, Johnson State Prison, Lieutenant O'Neal, Johnson State Prison, MS. Casari, 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. M&Z Hall, Director of nurses, Johnson State Prison, and MS. Deann Morris, Plaintiff in the above name case, hereby appeal to the Court of Appeals of Georgia (11th Circuit) (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, 56 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); Jefferys v. United States, 748 F.3d 1310, 1314 (11th Cir. 2014); Cert. denied, 135 S.Ct. 241 (2014); Green v. Drug Enforcement Adm'n., 606 F.3d 1296, 1300-02 (11th Cir. 2016). Plaintiff has (14) days to response(s). Entered in this action on the 20 day of February, 2015.

Date: 02/23/15

Russell Gauthier
Russell Gauthier 93822
Johnson State Prison P.O. Box 344
Wrightsville, Georgia 31096

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. & 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. *Lieberberg 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 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, I'm sleeping in my wheel-chair with a mat, & don't sleep on the bed because of the ants. & complain about it, the official sometime change the mat, now no one cares. I'm being retaliated by this suit. & asked to be transfer, because I fear for my life. & don't have any access in doing law work.

Differential treatment: esp., a failure to treat all persons 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, 3439-40.]

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.

PRAYER FOR RELIEF

The 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:

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

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

Prather, Lee W. Attorney At Law Wheeler Executive Center 3540 Wheeler Road Suite 514 Augusta, Georgia 30909.

Hing & Spalding 1180 Peachtree Street North East Atlanta, Georgia 30309.

John Marshall Law School 1477 West Peachtree Street North West Atlanta, Georgia 30309.

Lucy Lu & Associates Law Group one 1400 Oak Plaza 3475 Lenox Road Suite 730 Atlanta, Georgia 30326.

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

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, placed in the U.S. mail, and on this day mailed to the party as follows:

(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 North Avenue Suite 501
Atlanta, Georgia 30331

Russell Barber 73827 31-142
Johnson State Prison P.O. Box 344
Wrightsville, Georgia 31096

Signed this 23rd day of February, 2015.

Please Write Back Soon!

COURT OF APPEALS OF GEORGIA

Russell Gauthier,
Plaintiff.

v.

Pullin, et al.,
Defendant(s).

*

* MOTION FOR APPOINTMENT OF COUNSEL

*

* APPEAL NUMBER: 14-14846-A

*

* DISTRICT COURT DOCKET NUMBER:
5:14-CV-00260-MTY-CW

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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 whom he names, addresses he has wrote to them asking for counsel in this matter. (If Confidential), should be enough.

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

Sign this 23rd day of February, 2015.

Russell Gauthier
Russell Gauthier

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

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30334-1400

(CLERK)

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

(CLERK)

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

RUSSELL WASHNER 33822
Johnson State Prison P.O. Box 344
Wrightsville, Georgia 31096

Served this _____ day of _____, 20__.