

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

February 19, 2015

To: Mr. Jimmie Lee Green, Jr., GDC961894, 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. 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.

GEORGIA COURT OF APPEALS
STATE OF GEORGIA

In Esse; In Propria Persona, Sui Juris
Jimmie Lee Green Junior, Third Party Beneficiary
JIMMIE LEE GREEN # 961894, Trust / Person
Aggrieved Party / Petitioner
VS.

Appeal No: _____

Lower Court Case Nos: CR11-2791-MO
Attempt Armed Robbery, Aggravated Assault;
changed to CR11-2791-J2 Armed Robbery
, Aggravated Assault; Nolle Pros; then
Incorporated to CR 13-0890-J2
Convicted Felon in Commission of a Crime,
Convicted Felon in Possession of a Fire Arm
/ Knife;
Concurrent with CR 13-2141-J2
Possession with Intent and
CR06-2120-MO Possession With Intent,
Possession with Intent to deliver, (which
was dismissed in Portwentworth Court.)
Affidavit of Fact / Memorandum

THE STATE OF GEORGIA, et al,
CHATHAM COUNTY SUPERIOR COURT, INC., en bloc,
TIMOTHY R. WALMSLEY, Judge,
ANN M. ELMORE, Prosecutor,
CHRISTOPHER MIDDLETON, Stand By Counsel,
BOBBIE H. MAHON, CCR

Respondants

RECEIVED
2014 AUG 17 PM 3:39
CLERK OF SUPERIOR COURT
CHATHAM COUNTY, GA

NOTICE OF APPEAL

Notice is hereby given that, Jimmie Lee Green Junior, Sui Juris, Natural Person, alleges that he should be viewed as a third-party beneficiary of the Contract, not construed as Pro se or the Fiction in all caps; Petitioner / Appellant in the above named action, hereby appeals to the Georgia Appellate Court of the State of Georgia, from the final Judgement from the Order issued by the Honorable Timothy R. Walmsley, Judge / Ministerial Officer of the Chatham County Superior Court Inc., denying Petitioner's / Appellant's Motion for; Out of Time Appeal on the 7th day of August, 2014. Therefore, this Petitioner / Appellant hereby appeals to the Georgia Court of Appeals.

- Petitioner / Appellant hereby moves the Clerk of this Honorable Court to;
1. Grant the appeal, which was granted the 3rd of October 2014, by Judge Timothy R. Walmsley, which claimed the Appeal was granted.
 2. If the Court did not forward all records, documents, and related materials to the Clerk of the Georgia Court of Appeals, to find them in default and grant an Acquittal on behalf of the Petitioner / Appellant.

AFFIDAVIT OF FACT

Correct True and Complete

Mico Atum-Re El (exrel), Jimmie Lee Green Junior, A Natural Person, In Propria Persona, Sui Juris (not to be confused with nor substituted with Pro Se); and not a Statutory Person; third party beneficiary; (Herein after Petitioner) / (Alleged Accused).

VS:

1. STATE OF GEORGIA / CHATHAM COUNTY SUPERIOR COURT, private corporation; foreign to the United States Republic; and all Chatham County Employees; Agents; Officers, Contractors; Assignees, etc., being Respondants, or Parties of Interest in the 'Color of - Law' processes instituted by them, or any one of them against Mico Atum-Re El (ex rel) Jimmie Lee Green Junior.
- 2- Court Administer for STATE OF GEORGIA / CHATHAM COUNTY SUPERIOR COURT, private corporation foreign to the United States Republic; and foreign to the organic Georgia Republic.
- 3- STATE OF GEORGIA, corporation established in the year SEVENTEEN SEVENTY-SIX (1776), foreign to the organic Pennsylvania state Republic; and foreign to the United States Republic of North west America.

I, Mico Atum-Re El (ex rel) Jimmie Lee Green Junior, In Propria Persona, Sui Juris; Aboriginal, Indigenous American National, Free hold to the Yamacraw Territory, by Inheritance with Birthrights and protected and secured Inalienable Rights, makes with this NOTICE OF APPEAL ~~to~~ the unconstitutional Complaint's / Suit's / Bills of Exchange / Action, Numbers (Case Numbers) in the above caption). Petitioner is with reasonable expectation that the Officers / Agents, and Officials, holding any position of Public Trust, or Political Office, are prohibited, under Official Oaths, under the authority of the Law of the Land, from the use of the official position(s) or office(s) to violate the Constitution for the UNITED STATES OF AMERICA; and thus, by the abuse of authority, and practice of superseding their 'limited' jurisdictional powers, violate and abridge the Natural, Divine, Unalienable, and Secured Rights of the People; terminating with the cause of damage to this Petitioner / Plaintiff.

CAUSE OF ACTION

The STATE OF GEORGIA / CHATHAM COUNTY SUPERIOR COURT is an unconstitutional, private corporation, not delegated by Congress, under Article III, section 2 of the Constitution; and that the Officers does not, and did not provide 'Due Process' protected and secured for the People, by the Amendments IV, V, VI, VII, VIII, IX, and X of the United States Constitution, to which the Judges and Officers in every State is bound (by Official Oath) to support and to uphold. Any statutory regulation, ordinance, or laws of any State, to the contrary, notwithstanding.

This allegedly - accused Petitioner believes that in accord with the Substantive Rights retained by the Petitioner, notifying all parties of the Petitioner's American National Status and that the Petitioner was not, is not, and does not, waive any Inalienable Rights to due process; and affirmed that any action be adjudicated in a lawfully delegated jurisdiction and venue.

The Officers of CHATHAM COUNTY SUPERIOR COURT command that the Petitioner, Imposed under threat, duress, and coercion with a 'man-of-straw' / misnomer words misrepresented as implying my name, and typed upon the Order / Instrument(s), and was improperly spelled, "JIMMIE LEE GREEN". ALL CAPITAL LETTERS. That misnomer and CORPORATE-NAME,

"JIMMIE LEE GREEN" is clearly (an artificial-person / entity); is not me, the Natural Person; is a deliberate grammatical error, intended for injury to me; and is clearly not of consanguine relationship to me or to my nationality, in any form, truth, or manner; nor to my Family Bloodline. This is a in violation of my secured rights to my name and nationality; a violation of International Law; and a violation of the Obligations of the Officers of the Court; and a violation of their fiduciary duties and Official Oaths to uphold and to support Article ~~VII~~ VI; Amendment VII, the right to a jury trial "[i]n suits at common law," and violating my Substantive Rights, and the Articles of Part 1 of 'The Rights of Indigenous People'.

This Petitioner made a "Reservation of Rights" as stated on the contract and signed for the record.

Respondant(s) is with 'want of jurisdiction' by knowingly and willingly conspiring (under a Color - of - Authority) to deny this Petitioner, Due Process and Equal Protection of the Law.

The unconstitutional charges under which the Petitioner is being forced to answer and held under duress, are non-constitutional on their face and unconstitutional when applied to the Petitioner because they do not have an enacting clause or single title, thereby denying due process of law. Due Process of law is not necessarily satisfied by any process which the Legislature may prescribe. See: *Abrams v. Jones*, 35 Idaho 532, 207 P. 724. "If any question of fact or liability be conclusively presumed against him, this is not due process of law, *Zeigler v. Railroad Co.*, 58 Ala. 599.

NOTICE

The Petitioner, demand all rights under the common law based upon the status as a matter of due process of law and to determine what legal rights the Petitioner has in this court and what rights will be denied, if any, to determine what jurisdiction the Plaintiff / Petitioner will be in.

MEMORANDUM

ISSUE:

The case was first CR11-2791-MO, with the Honorable, Judge, John Morse Sr.; jurisdiction was not established and the case was not indicted within the 90 day statute of limitations. A Fast and Speedy Trial was not answered; Stand by Counsel Don Donaldson claimed their can't be a trial without an indictment. From the face of the arrest warrant it is evident that it was issued without probable cause. The incorporated affidavit supporting the warrant, completed at the direction of Det. Keith Dennis, an investigator who had relatively little involvement in the case, states only that the affiant swears that "to the best of (his) knowledge and belief Green, Jimmie Lee did... commit the offense. Such a conclusory assertion clearly is insufficient to establish probable cause. See: *Byars v. United States*, 273 U.S. 28, 29, 47 S.Ct. 248, 249, 71 L. Ed. 520 (1927). The affidavit contains neither information providing

the basis for the affiant's belief nor any affirmative allegation that the affiant had personal knowledge of the circumstances surrounding the alleged commission of the crime.

- The case changed to CR11-2791-J2 after an indictment was returned by Carry Chisolm; not a Grand Jury of 12. There were dead jurors and disjunctive allegations and terms. Petitioner entered a Plea of Abatement on this indictment / information. This case was Nolle Pros on May 20, 2013. Jurisdiction was challenged.

- The case was incorporated into CR13-0896-J2, by Ann M. Elmore. When Ann Elmore asked Petitioner "how do you plea", Petitioner replied, "I will not enter a plea, I waive the benefit", then Judge Timothy R. Walmsley told Ann Elmore to enter a Not Guilty Plea. Petitioner informed the Judge that he could NOT practice Law from the bench. The court ignored Petitioner and proceeded with this state case in admiralty. The Prosecutor Ann Elmore and Judge Timothy Walmsley instructed the Petitioner to go to the Chatham County jail and be refinger printed.

- At this point Petitioner stop communication with the Court, being the Color-of-Law proceedings and commitment of joinder they were attempting to make.

- Petitioner was arrested without issuance of warrant, brought in for a misdemeanor traffic violation against his Right of Travel in the 1st Amendment as evidenced in positive law and stare decisis, to wit; Chicago Motor Coach v. Chicago 169 NE 221 "the use of the highways for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived".

- Petitioner was not notified of a trial, being there was never an Arraignment hearing within 72 hours of the original charges. Petitioner was only asked to plea at a Pre trial on May 20, 2013.

- Petitioner had a hearing on September 16, 2013, Petitioner Challenged Jurisdiction. Also requesting the jurisdiction of the court. Petitioner was forced into an Advisory jury trial not a jury of his own peers; The Petitioner is not an State employee, officer or citizen, nor does he vote or has ever voted. At the trial September 30, 2013, the prosecutor, Ann Elmore's conduct was generally so outrageous that it violates "fundamental fairness" and is "shocking to the universal sense of justice". She used improper methods calculated to produce a wrongful conviction. During her Voir dior, which she was first, alluded to her personal integrity as a conscience for the community and made remarks that were likely to influence the jury to a conviction. She used staged testimony to introduce inadmissible evidence. She denied all 3 witnesses on the Petitioners behalf.

- Stand by Counsel Chris Meddelton did not have Petitioner's best interest at hart. He sat in the back row at trial. He never objected to the vindictive acts of the court, or the unprofessional conduct of the deputy at the prior hearing commanding Petitioner to "shut up and let the judge or prosecutor talk" while

holding his tazor in the Petitioner's face.

- Court Recorder Bobbie H. Mahon, omitted valuable information from the record. He never put in Ann Elmore voir dire; he claims Petitioner had a voir dir first, which is incorrect. He change the Plea/Contract from 5 years First Offenders to Five years No probation. He added things not said in the record also.

CONCLUSION:

Petitioner claims that the conduct complained of is inside the coverage of § 1981 because the Petitioner has been denied the right not to contract as a majority, to reserve his rights under UCC 1-207, 1-308, not to be compelled to any unreveling, or unconscionable contract. Petitioner establishes that the transactions between the Petitioner and Respondant(s) did not amount to a contract, implied or otherwise, and no contractual relationship, either actual or potential, was created. Petitioner can offer evidence by exhibits showing that there was no agreement between the parties, no consideration recieved, and that the Respondant(s) do not possess any enforceable rights against the Petitioner. Where a particular contractual relationship has been established, Petitioner claims to be remote from the relationship at issue.

Petitioner Motion's this Court To Arrest Judgement on the ground of the un-constitutionality of the statute's on which the charges are based. Legislation invalid because the court concluded that the legislation did not have a substantial relationship to some matter of legitimate public concern. State courts, because they are closer to local conditions, and are more likely to conclude that the true purpose of a statute is to surve a special interest group rather than the public. Thus, the statutes are invalidated because they in effect, created "a conclusive presumption of illegal purpose". Thus, these criminal statute's may be invalidated on the ground that it was passed solely for estetic reasons. "If the dominant purpose of the legislation be to surve private interest under the cloak of the general public good, the resulting legislation is a perversion and abuse of power and therefore unlawful."

REASONING:

- "Courts in administrative issues are prohibited from even listening to or hearing arguments, presentation, or rational." *ASIS v. U.S.*, 568 F2d 284.
- Citing *Burns v. Supp. Ct.*, SF, 140 Cal. 1.
- In the United States the following conduct has been held criminal although no statute made it so: attempt to commit a crime.
- Plain Meaning Rule: Gun / Knife 16-11-106; this statute has more than one meaning; the duty of interpretation does arise.
- Undue Vagueness in the Statute: Unconstitutional; Void for Vagueness - Fourteenth Amendment require that a criminal statute be declared void when it is so vague that "men of common intelligence must necessarily guess at its meaning and differ as to its application."
- The STATE OF GEORGIA, by becoming a corporation laid down its sovereignty, and took on a character of private citizen and can exercise No Power which is NOT derived from the

Corporate Charter, see: 22 U.S.C.A. § 286 (E); *The Bank of the United States vs. Planters Bank of Georgia*, 5 L. Ed (9 Wheat, 244).

- The Statutes that this Petitioner was illegally arrested, prosecuted, convicted, and sentenced to false imprisonment under were not enacted into Law, and not codified by the Georgia State Legislature ~~on~~ the General Assembly. Said statutes are "The Statutory Portion of the Codification of Georgia Laws prepared by the Code Revision Commission and the Mitchie Company..." and are cited as the Official Code of Georgia Annotated (O.C.G.A.), i.e., a purposefully misleading misrepresentation of the original text (code) see: O.C.G.A. § 1-1-1-(1).
- "Jurisdiction can be challenged at any time," and "Jurisdiction once challenged, cannot be assumed and must be decided." *Basso v. Utah Power & Light Co.* 495 F.2d 906, 910; "Once challenged, jurisdiction cannot be assumed, it must be proved to exist" *Stuck v. Medical Examiners* 94 Ca.2d 751, 211 P.2d 389.
- "No valid appearance", citing: *Lucas v. Vulcan Iron Works*, 233 F.2d 823, 827; *Ex parte Forbell*, 82 NYS.2d 109; *King Const. Co. v. Mary Helen Coal Corp.* 194 Ky 435, 239 SW 799.
- Ousters of judicial jurisdiction; citing: *Carbon Black Export, Inc. v. SS Monroza*, 254 F.2d 297, 300-01; *Gatliff Coal v. Cox*, 142 F.2d 876, 881.
- Contracts in violation; citing: *Penitentiary Co. v. Rountree*, 113 Ga. 799, 39 S.E. 508 (1901); *Sapp v. Davids*, 176 Ga. 265, 168 S.E. 62 (1933); *Insurance Company v. Morse*, 87 US 445, 451, 22 L. Ed 365; *Myers v. Jenkins*, 63 Ohio St. 101, 120, 57 NE 1089, 1093. See also *Duress* 13-5-6, "renders the contract voidable"; *Am. Jur.* 2d - 17 *Am. Jur.* 2d, *Contracts*, § 153, 25 *Am. Jur.* 2d, *Duress and Undue Influence*, §§ 1, 3 et seq., 24, 229 86 *Am. Jur.* *Pleading and Practice Forms*, *Duress and Undue Influence*, § 1. see also: 13-5-1, *Contract Not Obligatory*.
- Protection of right against double jeopardy; citing: *Hines v. State*, 41 Ga. App. 294, 152 S.E. 616 (1930); *Fortson v. Hopper*, 242 Ga. 81, 247 S.E. 2d 875 (1978); *Conley v. State*, 85 Ga. 348, 11 S.E. 659 (1890); *State v. Martain*, 173 Ga. App. 370, 326 S.E. 2d 558 (1985); *Bailey v. State*, 184 Ga. App. 890, 363 S.E. 2d 172 (1987); *Crumley v. City of Atlanta*, 68 Ga. App. 69, 22 S.E. 2d 181 (1942); *Jordan v. State*, 75 Ga. App. 815, 44 S.E. 2d 821 (1947). Plea of nolo contendere constituting a jeopardy, § 17-7-95; Multiple jeopardy in grand jury proceedings, § 17-7-53.
- "[A] court cannot create a claim"... citing: *Payne v. Secy of Treas.*, 73 F. App'x 836, 837 (6th Cir. 2003) (affirming sua sponte dismissal of complaint pursuant to Fed. R. Civ. P. § (a)(2) and stating, "[n]either this court nor the district court is required to create Payne's claim for her.")

REMEDY:

1- Nolle Prosequi entered after jeopardy attached, amounts to acquittal.
Reynolds v. State, 3 Ga. 53 (1847); Franklin v. State, 85 Ga. 570,
11 S.E. 876 (1890).

2- 13-5-4. Mistake of fact or law

If the consideration upon which a contract is based was given as a result of a mutual mistake of fact or of law, the contract cannot be enforced.

Citing: 9-11-9, Pleading of mistake as a defense, citing: 13-5-1 Contract not obligatory generally.

3- O.C.G.A. 9-11-12 (h) (3) lack of subject matter jurisdiction, the court shall dismiss the action. Thus, dismissal is mandatory and not waivable.

4- A motion to dismiss for lack of jurisdiction must be **granted** if there are insufficient facts to support a reasonable inference that the defendant can be subjected to the court's jurisdiction. Sol Melia, SA v. Brown, 301 Ga. App. 760, 761, 688 S.E. 2d 675, 677-78 (2009) (internal citations omitted).

All orders or judgments issued by a judge in a court of limited jurisdiction must contain the findings of the court showing that the court has subject-matter jurisdiction, not allegations that the court has jurisdiction. In re Jennings, 68 Ill. 2d 125, 368 N.E. 2d 864 (1977) ("in a statutory proceeding an order must contain the jurisdiction findings prescribed by statute.")

5- Release Petitioner from the Department of Correction, in Georgia and dismiss with prejudice and seal these cases, so they may never be tried again in any court.

6- § 22-4, Petitioner Motion's this Court for a Directed Verdict of Acquittal. Offense - (Black's Law Dic. 6th Ed.)

"... Generally implies a felony or a misdemeanor infringing public as distinguished from mere private rights, and punishable under the criminal laws, though it may also include the violation of a criminal statute for which the remedy is merely a civil suit to recover the penalty, citing: State v. Sykes, Fla., 434 So. 2d 325, 328.

This fictitious Plaintiff / Public Entity (a court of limited jurisdiction), lacks the power to act and have proceeded beyond the structures of the statutes, and that the statutes being applied are created from revised statutes and codes of a foreign and unidentified source, as they fail to show from what authority in law they exist, where they fail to show on their face, the mandatory enacting clause. Said revised statutes and codes fail to show a necessary and mandatory enacting clause on their face, giving them lawful force and effect. Said revised statutes and codes are private codes and statutes and are not laws, do not compel this Petitioner to perform and do not apply to him, and fail to show "authority for the court to make any order." Levy. Industrial Common Ibid; Midland Coal Co. v. Knox County, Ibid.

Further more, this Petitioner asserts that he was not given full disclosure

by the Courts true nature of the jurisdiction and/or authority of Chatham County Superior Courts Certified Copy of the Delegation of Authority Order, or regard to this Petitioner's arrest, conviction, or Commercial nature of the same involving commercial paper, i.e., warrants, indictments, (Bills of Exchange), Bid Bonds, Payment Bonds, Performance Bonds, etc.. created by the prosecutor or others regarding these case's

Wherefor petitioner prays this honorable court grant petitioner's motion for compliance and make a timely ruling on this Appeal.

James Lee Thomas Junior
Third Party Beneficiary

Respectfully Submitted, this 10 day of February, 2015 = 1435th.
I Am: James Lee Thomas Junior
Natural Person, In Propria Persona
U.C.C. 1-207, 1-308
All Rights Reserved, With out Prejudice

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing documents. 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(s) as follows:

Clerk for Georgia Court of Appeals
47 Trinity Ave, Suite 501
Atlanta, GA. 30334

Sworn to and Subscribed before me this 10th day of Feb, 2015
Bill [Signature]
Notary Seal
7/5/2015
Expired