

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

May 5, 2015

To: Mr. Johnny Brett Gregory, Reg. No. 57012-019, Federal Correctional Institution - Englewood, 9595 West Quincy Avenue, Littleton, Colorado 80123

Docket Number: A12D0411 **Style:** Johnny Brett Gregory v. Clayton M. Wittaker, Mack & Whittaker

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 _____.

APPLICATION - DISPOSED

- The referenced application was denied on July 2, 2012. Therefore, the application is final. Your document entitled, "Fraud Tolling Limitations Pursnt to OCGA §9-3-96" is being returned to you.**

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.

For Additional information, please go to the Court's website at: www.gaappeals.us

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JOHNNY BRETT GREGORY,)
Appellant,) Appeal No. A12D0411
v.)
CLAYTON M. WHITTAKER, et al.,)
Appellees.)

* * *

FRAUD TOLLING LIMITATIONS PURSUANT TO
O.C.G.A. § 9-3-96

RECEIVED IN OFFICE
2015 MAY -4 PM 3:14
CLERK OF SUPERIOR COURT
COURT OF APPEALS OF GEORGIA

COMES NOW, Johnny Brett Gregory, Appellant, pro se, to move this Honorable Court, with clean hands and good faith, pursuant to O.C.G.A. § 9-3-96, which reads: "if the defendant or those whom he claims are guilty of fraud by which the plaintiff has been debarred or deterred from bringing action, the period of limitation shall run only from the time of the plaintiff's discovery of the fraud."

The appellant herein and hereby respectfully submits this "Fraud Tolling Limitations" to the Court of Appeals Clerk of Georgia, who by error (see O.C.G.A. § 9-11-60(g)), returned to Appellant the motion on April 20, 2015, to which Appellant received the motion on April 28, 2015, where the Appellant wished to move the court to set aside judgment based upon fraud upon the court pursuant to § 9-11-60(d)(2). Appellant filed his claim for equitable estoppel on March 16, 2015, a copy of which is attached hereto and made apart hereof by reference as Exhibits U and V. See § 9-11-10(c).

The Appellant avers that the fraud claim is not time-barred under § 9-11-60(d)(2) (See Exhibit T), but rather has a four-year statute of limitations under § 9-3-96.

In Georgia, the statute of limitations for fraud claims is four years. O.C.G.A. § 9-3-31; Hamburger v. PFM Capital Mgmt. Inc., 286 Ga 382, 649 S.E. 2d 779, 784 (Ga. Ct. App. 2007). The claim accrues when the alleged loss occurs, unless the defendant is "guilty of a fraud by which the plaintiff has been debarred or deterred from bringing an action." O.C.G.A. § 9-3-96; Hamburger, 649 S.E. 2d at 784-5. In the latter instance, where actual fraud

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