

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

February 2, 2015

To: Mr. Victor B. Harris, GDC988492, Macon State Prison, PO Box 426, Oglethorpe, Georgia 31068

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.

IN THE SUPERIOR COURT OF COWETA COUNTY
STATE OF GEORGIA

VICTOR B. HARRIS

V.S

STATE OF GEORGIA

CRIMINAL CASE
NO. 2003-R-005

AFFIDAVIT

RECEIVED IN OFFICE
2015 JAN 30 PM 3:22
COURT OF APPEALS OF GEORGIA

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT VICTOR B HARRIS APPEAL TO THE COURT OF APPEALS OF GEORGIA FROM THE DENIAL ENTERED ON JANUARY 13, 2015 OF THE DEFENDANT'S MOTION TO VACATE VOID JUDGMENT AND CONVICTION, THAT WAS FILED AUGUST 7 2014. BY THE SUPERIOR COURT, CLERK. BASED ON 14-9 DISCOVERY- SCIENTIFIC REPORTS INFORMATION OF EXCULPATORY EVIDENCE.

THE CLERK WILL KINDLY OMIT NOTHING FROM THE RECORD ON APPEAL AND TRANSMIT THE DEFENDANT ORIGINAL MOTION, LETTERS OF BOTH PARTIES AND THE COURTS ORDER, PROCEEDINGS HAVING BEEN ORDERED AND COMPLETED, WILL KINDLY BE FILED FOR INCLUSION IN THE RECORD ON APPEAL.

THE COURT OF APPEALS HAS JURISDICTION OF THIS APPEAL PURSUANT TO ARTICLE 6, SECTION 5, PARAGRAPH III OF THE CONSTITUTION OF THE STATE OF GEORGIA AS IT INVOLVES A CASE IN WHICH JURISDICTION IS NOT RESERVED TO THE SUPREME COURT OF GEORGIA

RESPECTFULLY SUBMITTED THIS 29 DAY OF JANUARY 2015
VICTOR B HARRIS
MACON STATE PRISON
PO BOX 426
OGLETHORPE GA 31068

Victor B. Harris
PRO-SE

DEFENDANT AFFIDAVIT IN SUPPORT OF HIS MOTION TO VACATE VOID JUDGMENT AND CONVICTION.

I VICTOR B HARRIS, NAMED DEFENDANT GDC # 988492 IN THE ABOVE NAMED PROCEEDING, AND STATES HIS OATH AS WITNESS TO THE FOLLOWING:

(1)
My NAME IS VICTOR B HARRIS, I AM SUI JURIS AND COMPETENT TO TESTIFY IN THIS MATTER;

(2)
I GIVE THIS AFFIDAVIT BASED ON MY PERSONAL KNOWLEDGE OF ITS CONTENTS;

(3)
I AM OVER THE AGE OF 18 AND I AM COMPETENT TO EXECUTE THIS AFFIDAVIT;

(4)
I AM CURRENTLY INCARCERATED AT MACON STATE PRISON IN OGLETHORPE, GEORGIA;

(5)
DEFENDANT SUBMITTED HIS MOTION, IT WAS FILED ON AUGUST 7, 2014 IN THE CLERK OFFICE, SUPERIOR COURT, COWETA COUNTY, 72 GREENVILLE STREET, P.O. BOX 943, NEWNAN, GA 30264, AND FORWARDED A COPY OF MY MOTION TO JUDGE PALMER, THE DISTRICT ATTORNEY'S OFFICE, AND THE PUBLIC DEFENDER'S OFFICE, FOR THEIR REVIEW, CRIMINAL DOCKET NUMBER: 2003-R-005.

(6)
I TESTIFY THIS MOTION WAS FILED TO CHALLENGE THE VOID JUDGMENT AND CONVICTION ON COUNT FOUR ~~XXX~~ CHILD MOLESTATION ~~XXXXXXXXXX~~ BECAUSE THE SCIENTIFIC REPORTS, THE SUBSTANCE OF THIS MATTER, WAS NOT EXHIBITED AS EVIDENCE AT MY TRIAL. ALSO IT SHOULD NOT HAVE BEEN AFFIRMED ON MY DIRECT APPEALS DUE TO THE TESTIMONY OF THE EXAMINING PHYSICIAN TESTIFIED THE VICTIM WAS INFECTED WITH A VIRUS THAT IS USUALLY SEXUALLY TRANSMITTED WITHOUT PRODUCING PROOF OF THE TEST RESULTS.

MOTION TO VACATE VOID CONVICTION. QUOTING ON THE BASIS THAT THERE WAS INSUFFICIENT EVIDENCE TO FIND HIM GUILTY FOR THE OFFENSE OF CHILD MOLESTION. A TRIAL COURT'S AUTHORITY TO VACATE OR MODIFY A JUDGMENT OR SENTENCE ENDS WITH THE EXPIRATION OF THE TERM OF COURT IN WHICH THE JUDGMENT IS ENTERED. EDDLEMAN V. STATE, 247 GA. APP. 753 (2) (2001); CREW V. STATE, 259 GA. APP. 771 (2003). AN EXCEPTION EXISTS WHEN THE SENTENCE IS ONE THAT THE LAW DOES NOT ALLOW. BATTLE V. STATE, 235 GA. APP. 101, 102 (1998). HERE, DEFENDANT'S SENTENCES ARE WELL WITHIN THE MAXIMUM ALLOWED BY LAW. FURTHER, THE TERM OF COURT EXPIRED LONG BEFORE THE DEFENDANT FILED HIS MOTION AS THESE SENTENCES WERE ENTERED OVER 10 YEARS AGO THEREFORE, THE DEFENDANT'S MOTION TO VACATE VOID CONVICTIONS IS HEREBY DENIED. SO ORDERED, THIS 13TH DAY OF JANUARY 2015.

(11.)

I TESTIFY I FILED MY MOTION TO VACATE VOID JUDGMENT AND CONVICTION. I DID NOT CHALLENGING A LEGAL SENTENCES THAT LAW ALLOWS AS HONORABLE JUDGE PALMER RULED AND ORDERED, BUT ON THE BASIS 14-9 DISCOVERY- SCIENTIFIC REPORTS.

I SWEAR OR AFFIRM THAT ALL OF THE INFORMATION CONTAINED IN THIS AFFIDAVIT AND ALL OTHER TESTIMONY GIVEN BY ME UNDER OATH IS TRUE TO THE ^{BEST} OF MY KNOWLEDGE AND BELIEF.

SWORN TO AND SUBSCRIBED TO ME THIS
27TH DAY OF January 2015

DEFENDANT: Victor B Harris

NOTARY Marcus Wright



CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED THE WITHIN AND FOREGOING NOTICE OF APPEAL, UPON THE OPPOSING COUNSEL BY DEPOSITING A COPY OF THE SAME IN THE UNITED STATES MAIL TO:

COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA 30334

PETER JOHN SKANDALAKIS
DISTRICT ATTORNEY
COWETA JUDICIAL CIRCUIT
CARNEGIE BUILDING
P.O. BOX 1918
NEWAN GA 30264

THIS 29 DAY OF JANUARY 2015