



Court of Appeals of Georgia

June 18, 2015

TO: Mr. Leonard Hopkins, GDC420549, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

RE: **A14A2277. Leonard Hopkins v. The State**

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 _____.

CASE STATUS - DISPOSED

- The above referenced appeal was affirmed on February 26, 2015. The remittitur issued on March 13, 2015, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

COMMUNICATION TO A JUDGE ON THIS COURT

- Your correspondence was addressed to now Presiding Judge Anne Elizabeth Barnes. Pursuant to the Code of Judicial Conduct and the rules and the policies of this Court, the judges of this Court are not permitted to communicate with parties who have a case before the Court or which may come before the Court. The Clerk of the Court, Stephen E. Castlen, is responding to your communication.**

MOTION TO WITHDRAW AS COUNSEL

- Your attorney, Mr. Timothy Hoffman, will need to file a Motion to Withdraw as Counsel and it must be granted before you can file your own pleadings in this Court.**

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.

I

RECEIVED

6/13/15

2015 JUN 17 PM 2:56

CLERK OF SUPERIOR COURT
STATE OF GA

DEAR MA'AM,

How ARE you doing? Fine I hope. I am writing you because I feel as though I WAS wronged IN my APPEALS process. THE REASON why I say this IS BECAUSE; ~~IN~~ my CONVICTION IS BASED ON AN UNPROVEN, UNSUBSTANTIATED "LIE" that the STATE IS BEING ABLE to USE WITHOUT PROOF that I committed the act. They HAVE NO EVIDENCE to say I POSSESSED COCAINE IN THIS ARREST BECAUSE the drugs WAS found IN the PASSENGERS UNDERWEAR. The thing that ~~is~~ REALLY taints this CONVICTION IS: when I ASKED ~~to be given~~ for a speedy TRIAL to PROVE my INNOCENCE IN this CASE the TRIAL COURT dead docketed the CASE, PREVENTING me from PROVEN my INNOCENCE. But they ARE USING the INFORMATION from that CASE AS A WAY to say I transported drugs which IS A COMPLETE "LIE". For them to be able to USE EVIDENCE from a ~~conviction~~ the SIMILAR TRANSACTION, they must HAVE PROOF that I committed the act AND the dead docket PROVES that they CAN'T substantiate the ACCUSATION. To further my point, ~~due~~ to justify this act, the STATE submitted EVIDENCE that WAS NOT a part of TRIAL OR DISCOVERY, that IS ALSO for STATE submitted to the APPEALS COURT

II

WAS ARRESTED WITH A LOT OF CASH. THIS IS A FRAUDULENT ACCUSATION AND IT IS BEING USED TO JUSTIFY A CONVICTION THAT HAS NO SUBSTANCE OR VALIDITY. I AM BEING HELD IN PRISON ON FALSE INFORMATION AND MY LAWYER SEEMS TO BE GOING ALONG WITH THIS CONSPIRACY. I SUBMITTED THIS RECONSIDERATION TO THE APPEALS COURT BUT THEY WOULDN'T HEAR IT BECAUSE THEY SAY I CAN'T SUBMIT ANYTHING BECAUSE I HAVE A LAWYER. BUT THE LAWYER IS TELLING ME THAT HE NO LONGER REPRESENTS ME. (● PROOF ENCLOSED). ALL I'M ASKING FOR IS THE OPPORTUNITY FOR A FAIR APPEALS PROCESS WITH THE FACTS OF MY CONVICTION. MY CONVICTION IS TOTALLY CIRCUMSTANTIAL AND HAS NO FACT TO BASE IT ON.

ALL I'M ASKING IS THAT YOU LOOK INTO MY CASE AND ALLOW ME THE OPPORTUNITY TO SUBMIT FACTS OF LAW THAT CONTRADICTS MY CONVICTION. THE STATE COMMITTED ~~PROSEC~~ PROSECUTORIAL MISCONDUCT BY SUBMITTING FRAUDULENT INFORMATION TO THE APPEALS COURT THAT WAS USED TO AFFIRM MY CONVICTION AND INFECTED THE FAIRNESS AFFORDED TO ME BY THE CONSTITUTION. I WOULD GREATLY APPRECIATE IT IF YOU WOULD LOOK INTO THIS MATTER AND ACKNOWLEDGE THIS CORRESPONDENCE. THE STATE, NOT ONLY, DELIBERATELY SUBMITTED FRAUDULENT INFORMATION, IT ALSO LEFT OUT INFORMATION (DEAD DOCKET ORDER) WHICH PROVES THEY HAVE NO PROOF OF A SIMILAR TRANSACTION, WHICH IS REQUIRED FOR IT

III

to be used. THESE ACTS ARE DELIBERATE DECEPTIONS THAT THE STATE USED TO MISLEAD THE JURY AND THE APPEALS COURT THAT DIRECTLY VIOLATES THE MY CONSTITUTIONAL RIGHT FOR A FAIR JUDICIAL PROCESS.

I AM ENCLOSING A LETTER I SENT TO THE JUDICIARY COMMITTEE, THE DEAD DOCKET ORDER, THE MOTIONS I SUBMITTED TO THE TRIAL COURT, A LETTER LETTING ME KNOW I AM NOT BEING REPRESENTED BY COUNSEL AND A LETTER FOR RECONSIDERATION OF MY APPEAL, ~~which~~ WITH THE OPPORTUNITY TO AMEND IT IF POSSIBLE. THANK YOU FOR LISTENING AND I LOOK FORWARD TO A RESPONSE.

P/S

SINCERELY yours,

My disposition from my appeal proves the FALSE EVIDENCE.

LEONARD HOPKINS

PLACING A CRIMINAL CASE ON DEAD DOCKET OVER A DEFENDANT OBJECTION IS AN ABUSE OF THE TRIAL COURT'S DISCRETION IN THAT IT VIOLATES THE RIGHT TO A SPEEDY TRIAL AS GUARANTEED BY BOTH THE GEORGIA AND FEDERAL CONSTITUTION NEWMAN V STATE, 121 GA APP 692, 175 SE 2d 144 (1970)

LETTER TO JUDICIAL COMMITTEE

Printed Name

2015 JUN 17 PM 2:57

Printed Name

Printed Name

I

5/24/15

DEAR SIR,

I AM WRITING THIS LETTER TO MAKE A FORMAL COMPLAINT AGAINST THE DA OFFICE OF DEKALB COUNTY AND JUDGE GREGORY ADAMS. JUDGE ADAMS AND THE DA VIOLATED THEIR OATH, DUTIES AND RESPONSIBILITIES OF ~~THE~~ THEIR OFFICE. THE GEORGIA CODE OF JUDICIAL CONDUCT SAYS; OUR LEGAL SYSTEM IS BASED ON THE PRINCIPLES THAT AN INDEPENDENT, FAIR, AND COMPETENT JUDICIARY WILL INTERPRET AND APPLY THE LAW THAT GOVERN US. THE ROLE OF THE JUDICIARY IS CENTRAL TO AMERICAN CONCEPTS OF JUSTICE AND THE RULES OF LAW. EVERY JUDGE SHOULD STRIVE TO MAINTAIN THE DIGNITY APPROPRIATE TO THE JUDICIAL OFFICE. THE JUDGE IS THE ARBITER OF FACTS AND LAW FOR THE RESOLUTION OF DISPUTES AND A HIGHLY VISIBLE SYMBOL OF GOVERNMENT UNDER THE RULE OF LAW. THE CODE OF JUDICIAL CONDUCT IS INTENDED TO ESTABLISH STANDARDS FOR ETHICAL CONDUCT OF JUDGES.

IN MY TRIAL, JUDGE ADAMS ALLOWED EVIDENCE THAT THE STATE NEVER HAD PROOF OF. HE ALLOWED A SIMILAR TRANSACTION INTO EVIDENCE WITHOUT FACTS OF PROOF. BEFORE TRIAL, IN THE 31(b) HEARING, HE DENIED THE USE OF THE SIMILAR ACT BECAUSE THE STATE DIDN'T HAVE PROOF THAT I POSSESSED THE COCAINE AND THEY WANTED TO IMPLY THAT I TRANSPORTED COCAINE AND THERE WAS NO EVIDENCE TO THAT FACT. THE DRUGS WERE FOUND IN THE PASSENGER'S UNDERWEAR, AND SHE PLED GUILTY TO THAT FACT AND IN HER GUILTY PLEA TO THE COURT

II

she NEVER implicated me in her criminal activity. There is NO proof that I had knowledge of her criminal activity. The law says that before evidence of a particular independent offense or act may be introduced, the trial court must make an on the record determination that each of the 3 showings has been satisfactorily made by the state as to that particular ~~independent~~ independent act, (Williams, 261 G. at 642). One of these showings is the proof that defendant committed the act. Because the charge is a pending charge, the state didn't have proof that I possessed or transported drugs because the drugs were in the passenger's underwear, out of view which contradicts knowledge. But as the trial went on, Mr. Adams felt that he made a mistake by not allowing the similar act because of the similarities involved. What gave me the opportunity to bring this act back up, is because my trial lawyer asked another officer in a separate similar act if I possessed drugs in that arrest. The officer said No. But the DA felt that by asking this question, it opened up the door for to allow the denied similar act back into play. The judge agreed without giving me the opportunity to rebut it and without the requirements of the 31(b) statute. The importance of this evidence was so vital to the state's case because it provided them with a connection between me and drugs. The law says; that a finding of constructive possession must be based on a connection between the defendant and

the drugs other than spacial proximity. Without this similar act the State has no way to say that I transported drugs, even though the allegations are unproven, unsubstantiated and have no basis. Once I realized the importance of this similar act, I filed for a speedy trial so that I can prove my innocence in that act but the State and the Judge decided to Dead Docket the case which in turn prevented me from proving my innocence. Instead of proving my guilt and solidifying their conviction, they conspired to Dead Docket the case but use the allegations from that case to ~~solidify~~ solidify a conviction, which is based on untrue, unproven, unsubstantiated allegations that they aren't ready to prove in a court of law. The law says: Placing a criminal case on the dead docket over a defendant's objection is an abuse of the trial courts discretion in that it violates the right to a speedy trial as guaranteed by both the Georgia and Federal Constitution. For the judge to allow the State to imply that I transported drugs without having proof directly violated my right to a fair trial and his responsibilities of fairness, complying with the law and being faithful to the law. The law says you can't do something but you allow it to happen because of the carelessness of my attorney and you justify his carelessness by saying you made a mistake and then you overlook the mistakes made and say my attorney wasn't insufficient because he successfully argued to it being

IV

ruled out, EVEN though IT WAS HIS CARELESSNESS that got IT RULED IN.

FOR THE GOVERNMENT NOT TO BE ABLE TO PROVE MY INVOLVEMENT IN A COURT OF LAW BUT USE OF THE ALLEGATION FROM THAT ARREST AS A FACT OF EVIDENCE TO GAIN A CONVICTION IN ANOTHER SEPARATE INCIDENT GOES AGAINST THE PRINCIPLES OF LAW, TRUTH AND JUSTICE. THE RESPONSIBILITIES AND DUTIES OF A JUDGE IS TO COMPLY WITH THE LAW AND BE FAITHFUL TO THE LAW. JUDGES SHALL DISPOSE OF ALL JUDICIAL MATTERS FAIRLY, PROMPTLY AND EFFICIENTLY. TO KNOW THAT THE DRUGS WERE FOUND IN THE WAISTBAND OF THE PASSENGER AND NOT HAVE PROOF OF KNOWING, BUT ALLOW THE DA TO IMPLY TO THE JURY AS TO IT BEING FACT IS A DIRECT VIOLATION OF THE JUDGE'S OATH AND MY CONSTITUTIONAL RIGHT TO A FAIR TRIAL.

TO FURTHER MY POINT, THE DEAD DOCKET ORDER IS DIRECT PROOF THAT THERE IS NO PROOF OF MY GUILT IN THE SIMILAR TRANSACTION. THEREFORE, FOR THE STATE NOT TO SEND THIS EVIDENCE TO THE APPEALS COURT BUT EMPHASIZE IN THEIR BRIEF THAT I POSSESSED AND TRANSPORTED DRUGS PREVIOUSLY SERIOUSLY Taints my appeals process. They made statements in their brief that ARE NOT FACTS AND COULD HAVE BEEN DISPUTED BY THE DEAD DOCKET ORDER. THE STATE KNEW THAT ~~THERE~~ MY CONVICTION WAS BASED ON UNPROVEN, UNTRUE, UNSUBSTANTIATED ALLEGATION, SO THE SUBMITTED EVIDENCE THAT WASN'T IN TRIAL, A PART OF MY DISCOVERY PACKET AND WAS COMPLETELY UNTRUE.

V

They said that I, Mr. Hopkins was found with a lot of cash. This is completely fraudulent and there is nothing to support this "lie". This is fraudulent information that the appeals court used in a determination to affirm my conviction. This is false evidence that the state is trying to solidify a conviction that it realizes is based on untrue, unproven allegations. By supplying this evidence to the appeals court is prosecutorial misconduct that violates O.C.G.A. statutes 23-2-51, 23-2-52 and 16-10-20. By providing this evidence, the state is purposely trying to ~~me~~ mislead the appeals court into affirming a conviction that has no grounds to stand.

By denying me a speed trial, the state's delay and failure to prosecute was an intentional device to gain a tactical advantage in the prosecution of another case that resulted in actual and substantial prejudice, that was based on the accusations of the similar act... for an agent of the state to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is "patently unconstitutional." *Borden Kircher v. Hayes*, 434 U.S. 357, 363 (1978). It is the prosecutor's duty in a criminal prosecution to seek justice. Therefore, the prosecutor should "prosecute with earnestness and vigor" but may not use "improper methods calculated to produce a wrongful conviction. If the use of such methods so infects the judicial

VI

PROCESS WITH ~~FAIRNESS~~ UNFAIRNESS AS TO MAKE THE RESULTING CONVICTION A DENIAL OF DUE PROCESS."

THE BILL OF RIGHTS, SECTION I, PARAGRAPH II SAYS; THE PROTECTION TO PERSON AND PROPERTY IS THE PARAMOUNT DUTY OF THE GOVERNMENT AND SHALL BE IMPARTIAL AND COMPLETE. NO PERSON SHALL BE DENIED THE EQUAL PROTECTION OF LAW, THE LAW SAYS; TO PROVE CONSTRUCTIVE POSSESSION, THE STATE IS REQUIRED TO SHOW THAT, ALTHOUGH NOT IN ACTUAL POSSESSION, ~~THE STATE IS REQUIRED~~ THE DEFENDANT KNOWINGLY HAD POWER AND INTENTION AT A GIVEN TIME TO EXERCISE CONTROL OVER DRUGS. EVIDENCE MERELY SHOWING THAT CONTRABAND WAS FOUND ON PREMISES OCCUPIED BY DEFENDANT IS NOT SUFFICIENT TO SUPPORT A CONVICTION, ESPECIALLY WHERE OTHERS HAD EQUAL ACCESS TO CONTRABAND. IN ORDER TO INTRODUCE EVIDENCE OF INDEPENDENT OFFENSES, IT MUST BE SHOWN THAT DEFENDANT WAS IN FACT THE PERPETRATOR OF THE OFFENSE, MOORE V STATE, 333 SE 2d 605, 254 GA 67 (1985). THERE IS NO DISPUTING THE FACT THAT THE DRUGS WERE FOUND IN MS. MCCRARY'S UNDERWEAR AND THAT SHE POSSESSES THEM (PER HER STATEMENT TO COURT). SHE ACTED ALONE IN THIS CRIMINAL ACT AND THE STATE HAS NO PROOF, OTHERWISE, FOR JUDGE ADAMS TO ALLOW THESE ~~ALLEGATIONS~~ IMPLICATION THAT I WAS INVOLVED IS A VIOLATION OF HIS OATH OF FAITH AND BEING FAITHFUL TO THE LAW AND VIOLATES MY CONSTITUTIONAL RIGHT TO A FAIR TRIAL AND GOES AGAINST THE PRINCIPALS OF OUR JUDICIAL SYSTEM AND LAW, IN THAT, OUR JUDICIAL SYSTEM IS BASED ON TRUTH AND JUSTICE. FOR THE STATE

VII

to submit false documentation and/or evidence to the appeals court and not disclose the Dead Docket Order in a deliberate act to mislead the appeals court and its process directly taints its decision, It violates O.C.G.A. 16-10-20, my constitutional rights to a fair judicial process and goes against the principals of Judge Adams's oath and the DA responsibilities. The State and Judge Adams deliberately misled the jury with unproven, unsubstantiated, allegations to gain a conviction and continued its deception by supplying the appeals court with false information (defendant found with lot of cash) and not supplying the Dead Docket order, which proves the States inability to prove guilt.

In closing, I ask that these these complaints be placed on record and investigated to the fullest, and I asked to be assigned counsel so that I am protected by law through the rest of my judicial process. I also would like to be reconsidered in my application for appeal. The accusations I am alleging are backed up by facts of law and needs to be addressed and as a result caused me harm in my judicial process. Thank you for listening and may God Bless You!

Submitted this 24 day of May, 2015

LEONARD HOPKINS
Leonard Hopkins 4205749

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

April 6, 2015

To: Mr. Leonard Hopkins, GDC420549, Hancock State Prison, Post Office Box 339, Sparta, Georgia 31087

Case Number: _____ Lower Court: _____ County Superior Court _____

Court of Appeals Case Number and Style: A14A2277. Leonard Hopkins v. The State

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: _____
- As long as you are represented by an attorney, you cannot file pleadings on your own behalf. Your attorney, Timothy Hoffman, Esq., 120 West Trinity Place, Suite 310, Decatur, Georgia 30030, must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court.**

I am returning the Motion for Reconsideration to you.

- 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.



STONE MOUNTAIN CIRCUIT CONFLICT DEFENDER OFFICE

120 W. Trinity Place, Suite 310, Decatur, GA 30030 · (404) 687-4001 · Facsimile (404) 371-2109

March 24, 2015

Mr. Leonard Hopkins
GDC# 420549
Hancock State Prison
PO Box 339
Sparta, GA 31087

Re: 12CR5192-5

Dear Mr. Hopkins:

Regrettably, I am writing to inform you that the Court of Appeals has affirmed your conviction. The decision is enclosed. Once your case has been remitted back to the trial court, your direct appeal will end. That means that I will cease to act as your counsel. Any further action on your case will be without the assistance of indigent counsel.

I want to explain your habeas corpus remedy. This is a civil suit, available first in the state courts and then in the federal courts, brought against the custodian, who stands in for the State. Because there is no right to counsel on habeas, most are filed "pro se," that is by the prisoner himself. A petition for a writ of habeas corpus draws into question the validity of his conviction on constitutional grounds.

There are limitations periods, however, after which a habeas cannot be filed except in very exceptional circumstances: one year for federal habeas and four years for state habeas. Because these periods are different and because they work differently, their interplay can be complicated. These limitations periods do not run serially—that is, one after the other for a total of five years. They run together from the date on which the conviction became "final." That date varies with the circumstances of the conviction. For cases in which there is no appeal, it is 30 days after the conviction, the time period for initiating a direct appeal (usually by moving for a new trial). For convictions on guilty pleas, it is the end of the term of court, the period in which a person can attempt to withdraw the plea. For convictions appealed to the State Court of Appeals, like yours, finality occurs 20 days after the opinion or after the disposition of any motion to reconsider, which is the period for filing a petition for further review ("certiorari") in the State Supreme Court. For convictions appealed to the State Supreme Court (including those decided in the Court of Appeals where further review was sought in the State Supreme Court), "finality" occurs 90 days after the State Supreme court has dispatched the case. This is the period in which a person can seek further review (again by "certiorari") in the United States Supreme court. For cases where such further review was actually sought, "finality" occurs when those proceedings have run their course in the United States Supreme Court.

Before seeking federal habeas, a person must first "exhaust" his state remedies. That is, he must take his claims to the highest state court he can reach as a matter of right. If he seeks federal habeas only on grounds raised and resolved in a direct appeal, then the direct appeal "exhausts" his state remedies and he can proceed straight to federal court. If he wishes to raise new grounds, however, which were not raised on the direct appeal (as is often the case), then he has to go through state habeas in order to "exhaust" state remedies with regard to them before the federal courts can address them. In

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

v.

Leonard Carl Hopkins

INDICTMENT NO.: 11CR6611-05

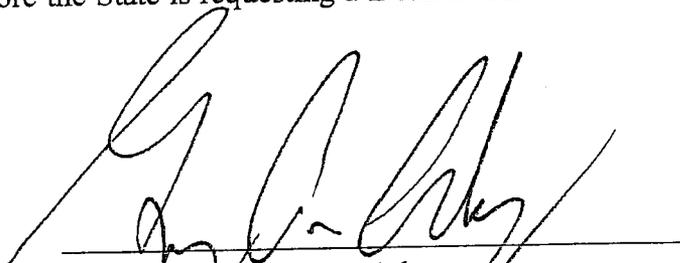
CHARGE(S): Possession of Cocaine with
Intent to Distribute, Driving While License
Suspended and Open Container

DEAD DOCKET ORDER

It is hereby considered, ordered, and adjudged that the above-styled case be placed on the Dead Docket for the following reasons(s):

The Defendant requested a jury trial on Indictment #12CR5192 whereupon a jury trial was began on May 28, 2013. The Defendant was found guilty and sentenced to serve 30 years and 36 months in custody. Since the sentencing date, the Defendant has filed for a Motion for a New Trial. The Motion for New Trial was heard and denied on May 20, 2014. The Defendant filed a Notice of Appeal to the Georgia Court of Appeals on May 29, 2014. There has not any indication that the case has been docketed yet. Therefore the State is requesting a Dead Docket in order to await the outcome of 12CR5192.

This 1st day of August, 2014.



Honorable Gregory A. Adams
DEKALB COUNTY SUPERIOR COURT
STONE MOUNTAIN JUDICIAL CIRCUIT

Presented by:



A'Sheika L. Penn
Assistant District Attorney
Stone Mountain Judicial Circuit
Main Office: (404) 371-2561
FAX: (404) 371-2981
Email: alpenn@dekalbcountyga.gov
Bar Number: 571303
Stone Mountain Judicial Circuit
556 N. McDonough Street; Suite 700
Decatur, Georgia 30030-3355

2014 AUG -4 PM 3:30
CLERK OF SUPERIOR COURT
DEKALB COUNTY GA



SCANNED

THE SUPERIOR COURT
OF DEKALB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

CASE # 11CR6611-5

v/s

POSSESSION OF COCAINE

LEONARD CARL HOPKINS, JR.

WITH INTENT TO DISTRIBUTE

DEMAND FOR SPEEDY TRIAL

COMES NOW, the defendant, LEONARD CARL HOPKINS, JR.
MOVES THIS HONORABLE COURT TO GRANT A SPEEDY
TRIAL IN THE ABOVE LISTED CASE, IN ACCORDANCE
TO HIS SIXTH AMENDMENT RIGHT TO A SPEEDY TRIAL.

I

BECAUSE OF THIS PENDING CHARGES, THE DEFENDANT IS
BEING DENIED OF THE POSSIBILITY OF REHABILITATION
AND BEING HINDERED IN HIS ADVANCEMENT OF REHAB-
ILITATION BECAUSE OF SECURITY CONCERNS. THESE ACCUSATIONS
ARE BEING HELD AGAINST THE DEFENDANT TO AID IN THE
ADVANCEMENT OF A CONVICTION THAT IS IN THE APPEAL
PROCESS. THE DEFENDANT WISHES TO DEAL WITH THESE
ACCUSATIONS, SO HE CAN BETTER HIS CHANCES ON APPEAL
AND CONTINUE HIS REHABILITATION.

Respectfully submitted this 13th day of July, 2014

2014 JUL 7 AM 10:02
DEKALB COUNTY
SUPERIOR COURT

STATE OF SERVICE
This is to certify that
Judge Adams has received a DAS
copy of this Document from
Superior Court

LEONARD HOPKINS 420549
Leonard Hopkins

THE SUPERIOR COURT
OF DEKALB COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

CASE # 11CR6611-5

v/s

LEONARD CARL HOPKINS, JR.

POSSESSION OF COCAINE
WITH INTENT TO DISTRIBUTE

MOTION TO DISMISS

COMES NOW, the defendant, LEONARD CARL HOPKINS, JR.
AND PURSUANT TO GEORGIA LAW, MOVES THIS HONORABLE
COURT TO DISMISS THE ABOVE STYLED CASE. AS JUST CAUSE
FOR THE INSTANT ACTION, DEFENDANT SHOWS AND STATES
THE FOLLOWING FACTS OF LAW:

I

ON OR ABOUT THE 23RD DAY OF DECEMBER, 2010, THE DEFEN-
DANT WAS INVOLVED IN A TRAFFIC STOP BY A DECATUR CITY
POLICE OFFICER. THE OFFICER INFORMED THE DEFENDANT THAT
HIS REASON FOR PULLING HIM OVER WAS BECAUSE A TAIL
LIGHT WASN'T WORKING OR WAS OUT. THE DEFENDANT WAS
SUBSEQUENTLY ARRESTED AND CHARGED WITH DRIVING WITH
A SUSPENDED LICENSE, OPEN CONTAINER, AND POSSESSION
OF COCAINE WITH THE INTENT TO DISTRIBUTE AFTER THE
PASSENGER WAS FOUND TO BE IN POSSESSION OF COCAINE
IN HER CLOTHING. (PANTIES)

II

The defendant submits that the charges ARE WHOLLY

SCANNED

AGAINST THE PRINCIPLES OF LAW. THE ARRESTING OFFICER DID NOT ISSUE A CITATION FOR THE ALLEGED NON WORKING TAIL LIGHT. THE DEFECTIVE TAIL LIGHT WAS THE REASONING BEHIND THE INITIAL STOP WHICH WOULD HAVE GIVEN THE OFFICER AUTHORITY TO MAKE ARREST. ALSO, NO DRUGS OR DRUG PARAPHERNALIA WERE FOUND IN THE VAN. THE PASSENGER WAS FOUND IN ACTUAL POSSESSION OF DRUGS IN HER UNDERWEAR AND HAS PLEAD GUILTY TO THIS FACT. THEREFORE, MAKING THE CHARGE AGAINST ~~THE~~ DEFENDANT (~~HOPKINS~~) OF POSSESSION WITH THE INTENT TO DISTRIBUTE VOID AND ERRONEOUS.

A) BECAUSE THIS WAS A TRAFFIC STOP AND CO-DEFENDANT (MCCRARY) WAS A PASSENGER, SHE WAS ONLY SUBJECT TO A PAT-DOWN SEARCH, IF SHE WAS SEARCHED AT ALL. THERE WAS NO REASON FOR THE OFFICER TO DETAIN HER, LET ALONE GO INSIDE HER CLOTHING IN THE MIDDLE OF THE ROAD. THE LAW STATES; WHEN A LAWFUL ARREST IS EFFECTED, A PEACE OFFICER MAY REASONABLY SEARCH THE PERSON ARRESTED BECAUSE A PASSENGER HAS STANDING TO CHALLENGE HIS/HER OWN DETENTION. WHERE A DEFENDANT'S CONSENT RESULTS FROM ILLEGAL CONTINUED DETENTION, IT IS INVALID AND THE FRUITS OF THE SEARCH SHOULD BE SUPPRESSED. FINNEY V. STATE, 270 GA APP 422, 606 S.E. 2D 637 (2004).

B.) TO COMPORT WITH CONSTITUTIONAL DUE PROCESS AN INDICTMENT CHARGING A DEFENDANT WITH A CRIMINAL OFFENSE MUST SATISFY 2 CRITERIA; (1) IT MUST SHOW THE ~~ESSENTIAL~~ ^{SCANNED} ELEMENTS OF THE CRIME AND APPRISE A DEFENDANT OF WHAT HE MUST BE PREPARED TO MEET AT TRIAL; (2) IT MUST

show accuracy to what extent the defendant may plead a former acquittal or conviction. The basic element of possession cannot be satisfied, as it pertains to defendant (Hopkins), because drugs were found in direct physical control (actual possession) of co-defendant (McCrary's) clothing. The law requires every element of a crime to be proved beyond a reasonable doubt, Gosha v. State, 56 GA 36 S.E. 2d (1876). Possession has been established on co-defendant's person, therefore should not be charged to defendant (Hopkins), making the indictment fatally defective and void.

III

The law says: If a defendant is charged with possession of cocaine, the state must prove: ~~possession~~ (1) possession; (2) an illegal substance. The law defines possession as; the fact of having or holding property in one's power; the exercise of dominion over property. The right under which one may exercise control over something to the exclusion of all others; the continuing exercise of a claim to the exclusive use of a material object. The detention or use of a physical thing with the intent to hold it as one's own; something that a person owns or controls. In common speech, a man is said to possess ^{SCANNED} or to be in possession of anything of which he has apparent control or from the use of which he has apparent power to exclude others.

A) THE LAW RECOGNIZES TWO KINDS OF POSSESSION, ACTUAL POSSESSION AND CONSTRUCTIVE POSSESSION. A PERSON WHO HAS DIRECT PHYSICAL CONTROL OVER A THING AT A GIVEN TIME IS IN ACTUAL POSSESSION. A PERSON WHO, THOUGH NOT IN PHYSICAL POSSESSION, KNOWINGLY HAS BOTH THE POWER AND INTENTION AT A GIVEN TIME TO EXERCISE DOMINION OR CONTROL OVER A THING IS IN CONSTRUCTIVE POSSESSION OF IT. LEE V STATE, 126 GA APP 38, 189 S.E. 2d 872 (1972). IF ONE PERSON ALONE HAS ACTUAL OR CONSTRUCTIVE POSSESSION OF A THING, POSSESSION IS SOLE! ANDERSON V STATE, 166 GA APP 459, 304 S.E. 2d 550 (1983).

B) THE LAW ALSO SAYS; THE PRESENCE OF A CONTROLLED SUBSTANCE IN A AUTOMOBILE, OTHER THAN A PUBLIC OMNIBUS (COMPANY VAN), IS PRESUMED EVIDENCE OF KNOWING POSSESSION THEREOF BY EACH AND EVERY PERSON IN AUTOMOBILE AT THE TIME SUCH CONTROLLED SUBSTANCE WAS FOUND, EXCEPT THAT SUCH PRESUMPTION DOES NOT APPLY; (1) TO A DULY LICENSED OPERATOR OF AN AUTOMOBILE WHO IS AT THE TIME OPERATING IT FOR HIRE IN THE LAWFUL AND PROPER PURSUIT OF HIS/HER TRADE, (2) TO ANY PERSON IN CAR, IF ONE OF THEM, HAVING OBTAINED THE CONTROLLED SUBSTANCE AND NOT BEING UNDER DURESS, IS AUTHORIZED TO POSSESS IT AND SUCH CONTROLLED SUBSTANCE IS IN SAME CONTAINER AS WHEN HE RECEIVED POSSESSION THEREOF; (3) WHEN CONTROLLED SUBSTANCE IS CONCEALED UPON THE PERSON OF ONE OF THE OCCUPANTS.

C) ACTUAL POSSESSION EXISTS WHEN A TANGIBLE OBJECT IS IN SURVIVED

U.S. v. Bederly, 750 F.2d 3437 (6th Cir. 1984) quoting U.S. v. Craden, ~~478~~ 478 F.2d 1329, 1333 (6th Cir. 1973). Put another way, "A person who knowingly has direct physical control (in underwear) over a thing at a given time, is in actual possession of it. U.S. v. Frederick, 406 F.3d 757, 765 (6th Cir. 2005). However, a defendant's presence when contraband is found, without more, is insufficient to establish the requisite knowledge, power or intention to exercise control over the contraband. U.S. v. Birmley, 529 F.2d 103, 107-08 (6th Cir. 1976). In order to prove constructive possession, the state must show that a defendant knowingly, had power and intent to exercise control over drugs. STEVENS vs STATE, 245 GAAPP 237, 238(c) 537 S.E 2d 688 (2000).

IV

O.C.G.A. 24-1-1 says the object of all legal investigation is the discovery of truth. Rules of evidence shall be construed to secure fairness in administration; eliminate unjustifiable expense and delay and promote the growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined. The drugs that were found, were not found in the van, nor was there any drug paraphernalia found in the van. They were found in ^{SUITS} ~~co-defendant's~~ (McCrary) underwear, in her direct physical control hidden from view of defendant (Hopkins). Therefore, the

BASIC TRUTH OF THIS INCIDENT IS THAT CO-DEFENDANT (MECRAA) WAS IN TOTAL POSSESSION OF COCAINE AND PROVED HER GUILT BY PLEADING GUILTY TO THIS FACT. THERE IS NO WAY THAT TWO PEOPLE CAN BE IN POSSESSION OF THE SAME OBJECT AT THE SAME TIME, ESPECIALLY WHEN IT IS FOUND IN ONE'S UNDERCLOTHING. THIS ACCUSATION HAS CAUSED THE DEFENDANT UNJUSTIFIABLE HARM, DENIED FUNDAMENTAL FAIRNESS, DUE PROCESS, AND EQUAL PROTECTION OF LAW. THIS ACCUSATION IS ONLY BEING HELD AGAINST THE DEFENDANT (HOPKINS) BECAUSE IT IS AN AID TO ASSIST THE ADVANCEMENT OF ANOTHER CONVICTION TO PREJUDICE THE JURY AGAINST HIM. IT IS BEING USED AS A CONNECTION TO DRUGS IN ANOTHER CONVICTION WHICH VIOLATES THE DEFENDANT'S RIGHT TO A FAIR TRIAL. THIS ACCUSATION HAS NO BASIS, IS CONTRARY TO LAW AND CANNOT BE LAWFULLY SUBSTANTIATED.

V

THE MOTION SET FORTH IN THIS COURT DEALS WITH FACTS OF LAW AND SHOWS THAT THE OFFENSES CHARGED LACKED VALIDITY, ARE CONTRARY TO LAW, THE PRINCIPLES OF JUSTICE AND EQUALITY AND CANNOT BE SUBSTANTIATED BY LAW. THEREFORE, BECAUSE OF THE ABOVE STATED REASONS, THE DEFENDANT, RESPECTFULLY ASKS THIS HONORABLE COURT TO GRANT THIS MOTION TO DISMISS WITHOUT PREJUDICE. IF THIS HONORABLE COURT DOESN'T SEE FIT TO RULE IN DEFENDANT FAVOR, DEFENDANT WISHES TO ACTIVATE HIS RIGHT ^{FOR A} SPEEDY TRIAL, SO THAT HE CAN BEGAN WORKING ON THIS CONVICTION AND APPEAL.

Respectfully submitted this 13th day of July, 2014

LEONARD HOPKINS 42054

P.O. Box 339

SPARTA, GA 31087

CLERK OF SUPERIOR COURT
DEKALB COUNTY GA

2014 JUL 17 PM 2:03

FILED

SCANNED

Court of Appeals
Of Georgia

LEONARD HOPKINS

DOCKET # A14A2277

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The State of Georgia

2015 JUN 17 PM 2:56

MOTION FOR RECONSIDERATION

Comes Now, the defendant, LEONARD CARL HOPKINS, REQUESTS that this Honorable Court RECONSIDERS ITS DECISION to AFFIRM the defendant's CONVICTION. IN support of the defendant's REQUEST, he CITES the following facts AND laws;

I

The EVIDENCE that WAS PRESENTED AT TRIAL WAS INSUFFICIENT to support this CONVICTION.

A) THE STATE IS USING the possible fact that the defendant could be guilty of the traffic offenses, so therefore he IS guilty of possession charge also. THERE WAS NO EVIDENCE presented that put MR. HOPKINS IN POSSESSION OF COCAINE. THE INITIAL REASONING behind the traffic stop WAS A DEFECTIVE TAIL light, THEREFORE THERE WAS NO REASON FOR THE OFFICER TO BELIEVE that drugs WERE BEING sold OR transported.

B) DURING trial, MR. LITTLE testified that he and J.T. physically put MR. HOPKINS IN bed, then J.T. took MR. LITTLE home. Ms. LEWIS corroborated that by testifying that when she WAS finally able to get IN the house,

BECAUSE SHE HAD GIVEN J.T. HER KEYS, SHE FOUND MR. HOPKINS IN BED ASLEEP. OFFICER CANIPE TESTIFIED THAT WHEN SHE SAW THE INDIVIDUAL WALK OFF AND SHE APPROACHED THE BACK YARD, SHE HEARD FOOTSTEPS RUNNING AWAY FROM THE HOUSE AND SHE WAS POSITIVE THAT THE INDIVIDUAL DIDN'T GO IN THE HOUSE. ALL THESE ARE FACTS THAT WERE STATED BY TWO STATE WITNESSES AND ONE DEFENSE WITNESS THAT ALL RELATED TO EACH OTHER AND MR. HOPKINS ALIBI. THE STATE IS TRYING TO USE THE INCONSISTENCIES OF MS. LEWIS' TESTIMONY OF OUR PERSONAL RELATIONSHIP AS EVIDENCE. THE BASIS OF THESE CHARGES HAS NOTHING TO DO WITH WHERE MR. HOPKINS LIVES, WHERE YOU PICKED HIM UP AT OR WHETHER SHE IS MY GIRL FRIEND OR NOT,

C) MS. LEWIS STATED IN HER TESTIMONY THAT WHEN SHE GOT INTO THE HOUSE, MR. HOPKINS WAS IN THE BED ASLEEP AND THAT THE ONLY WAY HE COULD HAVE GOTTEN IN WAS BY THE KEY, WHICH WAS ON THE KEY CHAIN WITH THE VAN KEYS, THAT SHE GAVE TO J.T. MR. LITTLE TESTIFIED THAT HE AND J.T. PHYSICALLY CARRIED MR. HOPKINS INTO THE HOUSE AND PUT HIM IN BED, THEN J.T. PRE TOOK MR. LITTLE HOME. THEREFORE EXPLAINING HOW MR. HOPKINS GOT IN THE HOUSE. THE STATE PRODUCED NO EVIDENCE TO DISPUTE THESE FACTS. EACH WITNESS GAVE UNDISPUTED TESTIMONY SUPPORTING MR. HOPKINS ALIBI THAT HE WAS HIGHLY INTOXICATED AND TAKEN TO MS. LEWIS' HOUSE AND PUT IN THE BED. THE STATE OFFERED NO EVIDENCE TO DISPUTE OR QUESTION THESE FACTS. TO DISPUTE THIS FACT THE STATE TRIES TO MAKE MS.

LEWIS' TESTIMONY A LIE BECAUSE OF HER INCONSISTENCIES ABOUT OUR RELATIONSHIP. HER TESTIMONY ABOUT THE FACTS OF THIS CASE WERE CORROBORATED BY OTHER WITNESSES.

II

THE LAW STATES THAT; IN A DRUG POSSESSION CASE BASED UPON WHOLLY CIRCUMSTANTIAL EVIDENCE, THE STATE MUST ADDUCE EVIDENCE ESTABLISHING A "MEANINGFUL CONNECTION" BETWEEN THE DEFENDANT AND THE DRUGS. "MERE PRESENCE, WITHOUT PROOF OF PARTICIPATION, IS INSUFFICIENT TO SUPPORT A CONVICTION. RATHER, THE STATE MUST SHOW THAT THE DEFENDANT KNOWINGLY HAD THE POWER AND INTENT TO EXERCISE CONTROL OVER THE DRUGS. THE INITIAL REASONING BEHIND THE STOP WAS A DEFECTIVE TAIL LIGHT, THE VAN WASN'T OBSERVED DOING ANY TYPE OF DRUG TRANSACTION, MR. HOPKINS WAS NOT FOUND AT THE SCENE OF THE TRAFFIC STOP, THEREFORE THERE IS NO WAY TO PROVE THAT MR. HOPKINS HAD KNOWLEDGE OR POWER OR CONTROL OF DRUGS BEING POSSESSED IN THE VAN. STEVENS V STATE, 245 GA APP 237, 238 (1) 537 S.E. 2d 688 (2000)
U.S. v BIRMLEY 529 F.2d 103, 107-08 (6th CIR. 1976).

A) THE STATE IS BASING MR. HOPKINS PRESENCE ON THE OFFICER'S TESTIMONY THAT THE MAN SHE SAW EXIT THE DRIVER'S SIDE MATCHED THE PHOTO AND PHYSICAL DESCRIPTION CONTAINED ON HOPKINS' DRIVER'S LICENSE. MR. HOPKINS HASN'T HAD A DRIVER'S LICENSE IN 15-20 YEARS, SO THAT DESCRIPTION AND PHOTO ARE VERY DIFFERENT. ALSO IN COMMON SENSE, THERE IS NO WAY FOR OFFICER CANIPE TO VISUALLY DETER

MINE the FACIAL FEATURES of an individual AT 3:00AM IN THE MORNING IN A BACKYARD AT LEAST 25-30 YARDS FROM HER. THE CAMERA ON HER CAR HAS A LIGHT ON IT AND IT DIDN'T DISTINGUISH A CLEAR PHOTO. THE STATE IS SAYING THAT THE JURY MADE A DETERMINATION BY WATCHING THE VIDEO, WHICH IS TOTALLY UNTRUE BECAUSE WHILE THE JURY WAS DELIBERATING THEY CAME BACK FROM DELIBERATIONS AND ASKED TO SEE THE VIDEO ~~ONE~~ AGAIN, BUT THE JUDGE DENIED IT SAYING HE DIDN'T WANT THEM FOCUSING ON ONE SPECIFIC PART OF THE EVIDENCE. BECAUSE THE JURY MADE THIS REQUEST PROVES THAT THERE WAS DOUBT AS TO MR. HOPKINS GUILT.

B) THE STATE IS CONTENDING THAT MR. HOPKINS WAS THE DRIVER OF THE VEHICLE, THEREFORE, HE POSSESSED THE CONTRABAND FOUND IN THE VEHICLE. BUT THE LAW STATES; THE EQUAL ACCESS RULE, AS IT APPLIES IN THE AUTOMOBILE CONTEXT, IS MERELY THAT EVIDENCE SHOWING THAT A PERSON OR PERSONS OTHER THAN THE OWNER OR DRIVER OF THE AUTOMOBILE HAD EQUAL ACCESS TO CONTRABAND FOUND IN THE AUTOMOBILE MAY OR MAY NOT OVERCOME THE PRESUMPTION THAT THE CONTRABAND WAS IN EXCLUSIVE POSSESSION OF THE OWNER OR DRIVER. IN REED AND WHIPPLE, THE COURT REVERSED CONVICTION INVOLVING ILLEGAL POSSESSION OF COCAINE BECAUSE STATE FAILED TO LINK DEFENDANT TO CONTRABAND FOUND IN THE VEHICLE. THESE DECISIONS, BALANCE ON THE FACT THAT OTHERS HAD EQUAL ACCESS TO THE VEHICLE WHERE CONTRABAND WAS FOUND AND INVOLVE A LACK OF EVIDENCE

of the contraband in close spatial proximity or accessibility to the defendant. There were at least 3 other individuals that had access to this vehicle from the time we went to the party until the traffic stop. Ms. Lewis testified to picking Mr. Little and Mr. Hopkins up, then driving to the party. She stated she gave the keys to J.T. and asked him to take Mr. Little and Mr. Hopkins home. Mr. Little testified to dropping Mr. Hopkins off and physically putting him in bed, then J.T. took him home. Ms. Lewis testifies to being the authorized driver of the UAN and this fact is corroborated by the owner of the UAN, Charles Smith. Therefore, in essence and through definition of the equal access rule, this rule definitely applies to this case because other people had the same opportunity as Mr. Hopkins to commit this crime. The state can only circumstantially place Mr. Hopkins at the scene of the crime, which proves that the evidence lacks strength. The equal access rule disputes any facts that put Mr. Hopkins in possession of cocaine because others had access and power to control the UAN and its contents.

III

The state also used two similar transactions to try to bolster their case. In the 2010 transaction, the trial court denied the use of this transaction in the similar transaction hearing held before trial. But during

TRIAL HE DECIDED THAT THE TRANSACTION SHOULD HAVE BEEN ADMITTED AND ALLOWED THE TRANSACTION TO BE USED. THE LAW STATES THAT; BEFORE EVIDENCE OF A PRIOR CRIME IS ADMISSIBLE, THE TRIAL COURT MUST DETERMINE THAT THE STATE HAS AFFIRMATIVELY SHOWN THAT; (1) THE STATE SEEKS TO ADMIT EVIDENCE OF THE INDEPENDENT OFFENSE OR ACTS FOR AN APPROPRIATE PURPOSE; (2) THERE IS SUFFICIENT EVIDENCE THAT THE ACCUSED COMMITTED THE INDEPENDENT ACT OR OFFENSE; AND (3) THERE IS SUFFICIENT CONNECTION OR SIMILARITIES BETWEEN THE INDEPENDENT OFFENSES OR ACTS AND THE CRIME CHARGED SO THAT PROOF OF THE FORMER TENDS TO PROVE THE LATTER. *HORV V. STATE*, GA APP 814, 406 S.E. 2d 137 (1991); *Kilgore V State* 251 GA 291, 305 S.E. 2d 82 (1983). THE STATE HAS NO PROOF (WIA CERTIFIED CONVICTION) OR ANY OTHER DOCUMENT THAT SAYS MR. HOPKINS POSSESSED COCAINE IN THE 2010 ARREST. THEREFORE AS A MATTER OF LAW, THIS INCIDENT CAN NOT BE USED AS A FACT OF EVIDENCE AGAINST MR. HOPKINS BECAUSE IT HAS NEVER BEEN ESTABLISHED THAT MR HOPKINS POSSESSED DRUGS IN THE 2010 INCIDENT. THE DRUGS THAT WERE FOUND WERE ~~EN~~ FOUND IN THE WAISTBAND OF THE PASSENGER (DIRECT PHYSICAL CONTROL) AND SHE HAS ALREADY PLEAD GUILTY TO THAT FACT. AFTER MY CONVICTION, MR. HOPKINS FILED FOR A SPEEDY TRIAL AND A MOTION TO DISMISS THIS ALLEGATION TO PROVE HIS INNOCENCE AND TO VALIDATE HIS CLAIM OF INNOCENCE ON THIS CHARGE CONVICTION. BUT THE STATE AND TRIAL COURT DECIDED TO DEAD LOCK THE CASE UNTIL ALL MY APPEALS ARE EXHAUSTED

BECAUSE THE STATE DECIDED UPON THIS ACTION FURTHER PROVES
~~THE~~ THAT THE ACCUSATIONS USED AS EVIDENCE IN THIS CON-
VICTION ARE UNPROVEN, UNJUST AND WITHOUT MERIT, (DEAD
DOCKET ENCLOSED) THEREFORE, BECAUSE THERE IS NO PROOF THAT
MR. HOPKINS POSSESSED COCAINE ^{NOT} IN THE 2010 ARREST, VERIFY
THAT THIS TRANSACTION SHOULD ^{NOT} HAVE BEEN USED AS A CONNECTION
TO DRUGS FOR MR. HOPKINS AND SHOULD NOT HAVE BEEN ALLOWED.
BY ALLOWING THIS EVIDENCE TO BE USED AS A FACT OF GUILT
PREJUDICE THE JURY AGAINST MR. HOPKINS AND VIOLATED HIS
DUE PROCESS, HIS RIGHT TO EQUAL PROTECTION OF THE LAW
AND DENIED MR. HOPKINS FUNDAMENTAL FAIRNESS AND ANY
POSSIBILITY OF A FAIR TRIAL. AS FOR THE 2011 SIMILAR TRANS
ACTION, THERE WAS A NO TO CONTENDERE PLEA USED IN THIS
CASE. THE LAW STATES IN O.C.G.A. 17-7-95(C) THAT; EXCEPT
AS OTHERWISE PROVIDED BY LAW, A PLEA OF NO TO CONTENDERE
PLEA SHALL NOT BE USED AGAINST THE DEFENDANT IN ANY OTHER
COURT OR PROCEEDINGS AS AN ADMISSION OF GUILT OR OTHER-
WISE OR FOR ANY PURPOSE AND THE PLEA SHALL NOT BE DEEMED
A PLEA OF GUILT FOR THE PURPOSE OF PUBLIC OFFICE, WITHOUT
THE USE OF THESE SIMILAR TRANSACTIONS THE STATE HAS NO
PROOF, EITHER DIRECT OR CIRCUMSTANTIALLY, THAT PROVES MR.
HOPKINS GUILT BEYOND A REASONABLE DOUBT. THE STATEMENTS
AND TESTIMONY THAT THE STATE USED ARE UNPROVEN, UNSUB-
STANTIATED CLAIMS USED TO JUSTIFY A CONVICTION THAT
SHOULDN'T HAVE HAPPEN. THIS EVIDENCE THAT USED BY THE
STATE TOTALLY BIASED AND PREJUDICE THE JURY AGAINST
MR. HOPKINS AND PREVENTED HIM FROM HAVING A FAIR TRIAL.

IV

Now as a final point to the case at hand, the trial court submitted unfounded, untrue information to this Honorable Court, in hopes of ~~justifying~~ justifying their conviction. In your brief of my denial, it was stated that the defendant had a large sum of cash on his person consistent with being a drug dealer. At no point during the defendant's arrest (which happened 2 weeks after the incident) was the defendant found with a large sum of cash. This evidence was never introduced in my trial, in my discovery nor was it a part of my jail inventory. The state realizes their mistake in this conviction and is deliberately and unjustly trying to justify this conviction by providing untrue, fraudulent unsubstantiated, unproven claims which directly violates Mr. Hopkins rights and ability to have a fair trial.

V

In closing, I am enclosing several documents that prove that my defense counsel, the DA and the judge knew of these arguments that I am presenting before this Honorable Court but for some reason chose to ignore these issues. For the trial court to use unsubstantiated, unproven claims as facts of evidence and then when the defendant tries to challenge these accusations, they deny him his due right by dead docketing the case but continues to use it as evidence to your Honorable Court. This is a complete miscarriage of justice and

GOES TOTALLY AGAINST THE LAWS OF THIS LAND. FOR THE DEFENSE COUNSEL AND APPEALS COUNSEL TO ALLOW THIS TREATMENT TO MR. HOPKINS TOTALLY VIOLATES THE GEORGIA STATE BAR RULES OF PROFESSIONAL CONDUCT AND THE 6TH AMENDMENT RIGHT TO COUNSEL, WHICH STATES, THAT THIS RIGHT EXISTS AND IS NEEDED IN ORDER TO PROTECT THE FUNDAMENTAL RIGHT TO A FAIR TRIAL, SINCE ACCESS TO COUNSEL'S SKILLS AND KNOWLEDGE IS NECESSARY TO ACCORD DEFENDANT'S THE AMPLE OPPORTUNITY TO MEET THE CASE OF THE PROSECUTION TO WHICH THEY ARE ENTITLED. BECAUSE OF THESE FACTS, THEIR CONDUCT FURTHER PROVES THEIR INSUFFICIENCY AS COUNSEL.

O.C.G.A. 24-1-1 SAYS THE OBJECT OF ALL LEGAL INVESTIGATIONS IS THE DISCOVERY OF TRUTH. RULES OF EVIDENCE SHALL BE CONSTRUED TO SECURE FAIRNESS IN ADMINISTRATION, ELIMINATE UNJUSTIFIABLE EXPENSE AND DELAY AND PROMOTE THE GROWTH AND DEVELOPMENT OF THE LAW OF EVIDENCE TO THE END THAT THE TRUTH MAY BE ASCERTAINED AND PROCEEDINGS JUSTLY DETERMINED.

AS AN ESSENTIAL OF THE DUE PROCESS GUARANTEED BY THE 14TH AMENDMENT, NO PERSON SHALL BE MADE TO SUFFER ONUS OF A CRIMINAL CONVICTION EXCEPT UPON SUFFICIENT PROOF WHICH IS DEFINED AS THE EVIDENCE NECESSARY TO CONVINCE A TRIER OF FACT BEYOND A REASONABLE DOUBT OF THE EXISTENCE OF EVERY ELEMENT OF THE OFFENSE.

The motion set forth in this Honorable Court deals with facts of law and shows how this conviction lacks validity, is contrary to law, violates the Principles and of Justice and Equality, and cannot be lawfully substantiated by facts. Therefore because of the above stated reasons, the defendant, respectfully asks this Honorable Court to reconsider its decision to affirm and grant him relief. The defendant is prepared to present these arguments in person to further substantiate his claims. Thank you for your time and may God Bless You.

Respectfully submitted this 2nd day of April, 2015,

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