

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

April 17, 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.

Again, 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.

4/12/15

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COURT OF APPEALS OF GA

DEAR SIR,

I AM WRITING YOU THIS LETTER TO INFORM YOU THAT I DON'T HAVE A LAWYER. MY LAWYER TOLD MY BROTHER THAT HE DIDN'T SEE ANY GROUNDS TO FILE A MOTION FOR RECONSIDERATION, WHICH IS EVEN MORE PROOF THAT HE WAS NOT WORKING FOR MY BEST INTEREST. ENCLOSED IS THE LETTER THAT HE SENT ME WHICH TERMINATED HIS SERVICE. I AM RE-SUBMITTING THIS MOTION WITH THE HOPES THAT YOUR HONORABLE COURT ACCEPTS IT AND GIVES ME THE OPPORTUNITY TO BE HEARD. THE REASONS I AM LISTING ARE QUITE VALID AND LINE UP WITH LAW. THE DA DELIBERATELY LEFT OUT INFORMATION (DEAD DOCKET: PROOF OF NOT GUILTY) AND ADDED EVIDENCE THAT WAS NOT A PART OF TRIAL AND IS COMPLETELY UNTRUE. MY CONVICTION IS BASED ON UNPROVEN, UNSUBSTANTIATED ALLEGATIONS THAT THEY HAVE NO PROOF OF BUT THAT WAS USED AS A FACT TO GAIN A CONVICTION. FOR A DA TO USE THE ALLEGATIONS OF A PREVIOUS ARREST AS A FACT MISLED THE JURY BUT THEN WHEN I CHALLENGE HIM TO PROVE MY GUILT, HE ~~DO~~ DEAD DOCKETS THE CASE TO PREVENT ME FROM PROVING MY INNOCENCE. HE REALIZES THAT WITHOUT THAT CONNECTION, THIS CONVICTION CANNOT STAND FOR HIM TO SUBMIT EVIDENCE THAT I WAS CAUGHT WITH A LARGE SUM OF CASH, IS A COMPLETE "LIE" AND CANNOT BE PROVED. FOR THE STATE TO BE ABLE TO USE THE ALLEGATIONS AS A FACT TO GAIN A CONVICTION IS COMPLETELY UNFAIR AND UNLAWFUL.

Court of Appeals
of GEORGIA

LEONARD HopKINS

DOCKET # A14A2277

v

THE STATE of GEORGIA

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MOTION FOR RECONSIDERATION

COMES NOW, the defendant, LEONARD CARL HopKINS, PRO SE 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 CORROBERATED 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 OWN 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 3:00 AM 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 DEPEND UPON THE STRENGTH OF THE EVIDENCE, OVERCOME THE PRESUMPTION THAT THE CONTRABAND WAS IN EXCLUSIVE POSSESSION OF THE OWNER OR DRIVER. IN REID 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