



Court of Appeals of Georgia

June 12, 2015

TO: Mr. Jerry L. Howard, GDC412015, Macon State Prison, Post Office Box 426,
Oglethorpe, Georgia 31068

RE: **A15A1456. Jerry L. Howard 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 referenced appeal was dismissed on April 21, 2015. The remittitur issued on May 6, 2015, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

The Brief of Appellant 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.

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In The Georgia Court of Appeals
State of Georgia.

Jerry L. Howard
Appellant

vs.

Case No. A15A1456

State of Georgia
Appellee

Brief of Appellant

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Jerry L. Howard
Macon State Prison
P.O. Box 426
Dglethorpe, Ga. 31068
Pro se

In The Georgia Court of Appeals
State of Georgia

Jerry L. Howard
Appellant

vs.

Case No. A15A1456

State of Georgia
Appellee

Part I

Statement of Facts.

Jerry L. Howard was found guilty of rape and other crimes, after which he filed a timely motion for new trial. On September 16, 2014, the trial court entered an order denying the motion for new trial. On October 17, 2014, Howard ~~filed~~ a pro se notice of Appeal was filed by the Superior Superior Court Clerk office of Chatham County, Georgia, which he sent via U.S. mail.

Appellant then filed an Appellant Brief with the Court of Appeals of Georgia, case no. A15A1456. Which was timely filed by mail rule, Howard's appeal was dismissed for lack of jurisdiction, because the Superior Court of Chatham County, Georgia, stamped upon it that Howard filed his notice of appeal 31 days after entry of the trial court's order. See notice of Appeal post dated October 10, 2015). If clerk of Superior Court filed notice of Appeal on October 17, 2015. Fact, it was in the mail prior to that date.

Part II

Enumeration of Errors

1) The appeal court erred by denying Appellant's brief on April 21, 2015, thereby denying Appellant's right to due process and to present his innocence as guaranteed by the Fourteenth Amendment of the United States Constitution.

Part III

Argument And Citation of Authority

1) The Appellant argue that the Appeals Court denied his Brief of Appeal on the grounds his notice of Appeal was ~~in the mail on October 10, 2014~~ filed untimely.

The mail-box rule proves the Appellant did not file his Appeal untimely, see (Notice of Appeal notarized and dated and mailed out on October 10, 2014). *Massaline v. Williams*, 554 S.E. 2d 720 and *Houston v. Lack*, 487 U.S. 266. Appellant swears under penalty of perjury that he placed his notice of Appeal in the prison mail-box on October 10, 2014. How else the Superior Court clerk could have filed it on October 17, 2014. Appellant is in prison and had to mail the Notice of Appeal to the Superior Court.

Conclusion

It is respectfully submitted that each issue set forth above demonstrate court made ruling that was unjust and should be righted according to the laws of this state. The mailbox rule. *Massaline v. ~~State~~ Williams*, 554 S.E.2d 720 and *Houston v. Lack*, 487 U.S. 266.

CONCLUSION

Appellant respectfully prays that this Court for the reasons set out above and in the intirety of this Brief reverse its desission.

Respectfully submitted this 18th day of May, 2015.

Adrian D. Nelson
Notary Public
5-18-15



Jerry Howard

Jerry L. Howard

Macon State Prison

P.O. Box 426

Oglethorpe, GA. 31068

Pro se

Certificate of Service

This is to certify that I have this day served a true and correct copy of the within and foregoing document(s) upon the party(s) listed below by depositing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to below addresse(s).

Georgia Court of Appeals

Suite 501

47 Trinity Avenue

Atlanta, Ga 30334

Frank Pennington ADA

133 Montgomery Street

SAV, Ga 31401

This the 18th day of May, 2015

Adrian D. Nelson



Signature George Howard