



**Court of Appeals of Georgia**

November 19, 2015

TO: Mr. Neal Howard, GDC977722, Ware State Prison, 3820 Harris Road, Waycross, Georgia 31503

RE: **A15A1135. Neal 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**

- Your appeal was affirmed on November 12, 2015. I have enclosed a courtesy copy of the opinion for your review.**

**The Appellee's Brief contains a total of 10 pages. Copies are \$1.50 per page in this Court. Your pauper status does not excuse you from the copy fees in this Court. The Court of Appeals of Georgia is not subject to the Open Records Act. Costs for a copy of the Appellee's Brief will be \$15.00.**

**Please send your check or money order to the following address specifying exactly what copies you want to be sent to you. Your request will be processed and sent to you by return mail.**

**Court of Appeals of Georgia  
47 Trinity Avenue, S.W. • Suite 550  
Atlanta, Georgia 30334**

**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 or around \_\_\_\_\_.

**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.

THIRD DIVISION  
ELLINGTON, P. J.,  
DILLARD and MCFADDEN, JJ.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.  
<http://www.gaappeals.us/rules>

November 12, 2015

NOT TO BE OFFICIALLY  
REPORTED

In the Court of Appeals of Georgia

A15A1135. HOWARD v. THE STATE.

MCFADDEN, Judge.

This direct appeal from a judgment of conviction entered on a guilty plea claims that the plea was not knowing and voluntary because the defendant did not have notice that the state was seeking recidivist punishment; however, the record plainly shows that the state provided notice that it was seeking recidivist sentencing prior to the plea. The further claim of ineffective assistance of counsel cannot be resolved by the record, and thus it is not properly before us.<sup>1</sup>

In December 2010, Neal Howard was charged by indictment with burglary, theft by taking, criminal damage to property in the second degree and obstruction of

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<sup>1</sup>The Appellant's motions to file a supplemental brief, to expedite, for appointment of counsel, and for "default judgment to dismiss all charges" are hereby denied.

COURT OF APPEALS OF GEORGIA  
DOCUMENT RETURN NOTICE FOR BRIEFS OR MOTIONS

To: *Neal Howard*

Docket Number: *A15A1135*

Style: *Neal Howard v. The State*

Your document(s) is (are) being returned for the following reason(s).

1.  Your Appellant's Brief, was not accompanied by the statutory filing fee (\$300.00 civil; \$80.00 criminal \*Effective July 1, 2009) or a sufficient pauper's affidavit. OCGA §5-6-4 and Rule 5 **Please be advised that your pauper's affidavit should be notarized by a notary public.**
2.  A Request for Oral Argument must be filed as a separate document. Rule 28 (a) (3)
3.  Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
4.  No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
5.  Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rules 1(a) and 6. You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
6.  There were an insufficient number of copies of your document. Rule 6.
7.  Your document exceeds page limits. Rules 24 (f) and 27 (a)
8.  Your document was submitted without permission to file (supplemental brief or second motion for reconsideration). Rules 27 (a) and 37 (d)
9.  Letter briefs and letter cites are not permitted. Rule 27 (b)
10.  Your request for court action must be submitted in motion form. Rule 41 (a)
11.  Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41 (b)
12.  Type was on both sides of the paper; type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 1(c), 37(a) and 41(b).
13.  The pages were not sequentially numbered with arabic numerals. Rule 24 (e)
14.  Case and/or record citations were not made in the proper form. Rules 24 (d) and 25 (c) (2)
15.  Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37 (a) and 41(b)
16.  Your document(s) was (were) not securely bound at the top with staples or round head fasteners. Rule 1 (c)
17.  The Motion to Supplement has not been granted.
18.  Other: *Judgement in this case 11.12.15*

For Additional information, please go to the Court's website at: [www.gaappeals.us](http://www.gaappeals.us)

NOV 18 2015

COURT CLERK  
CLERK COURT OF APPEALS OF GA

2015 NOV 18 PM 3:06

## IN THE GEORGIA COURT OF APPEALS

NEAL HOWARD,

Appellant,

v

DOCKET NO. A15A1135

THE STATE OF GEORGIA,

Appellee.

MOTION TO PRODUCE APPELLEE'S RESPONSE OR GRANT APPEAL

Comes now, Pro se Appellant Neal Howard, and respectfully moves this Court to forward the above-mentioned Appellant a copy of the Appellee's response<sup>1</sup>, or grant the forementioned motion and grant this appeal, and show cause as follow(s):

The Appellant submitted a notice of appeal to the trial court October 4, 2011. Contrary to the law and rules governing appeals, the trial court unjustly and inordinately delayed and obstructed the Appellant's appeal for approximately three years<sup>2</sup> depriving the Appellant any relief the law may provide. For this reason, the Appellant moves this Court to show the date the trial court submitted the record to this Court.

The Appellant contends that the trial court's failure to properly respond to the claims set forth in the case show that the Appellee concedes with the Appellant.<sup>3</sup> For this reason, the Appellant show that the Court's should grant His appeal.

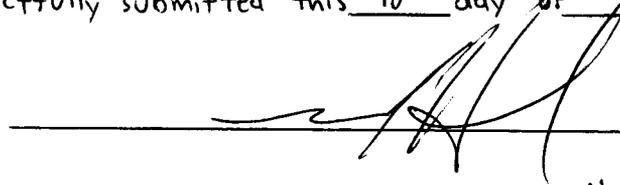
In conclusion, the Appellant pray that this Court grant the forementioned action as a matter of fact of law.

1. O.C.G.A. 5-4-7 provides "respondents are required to submit an answer to response." Court Rule 13 provide "a brief shall be filed by the appellee in all criminal appeals." Court Rule 23(b) provides "appellee's brief shall be filed within 40 days after the appeal is docketed or 20 days after filing of appellant's brief."

2. Court Rule 17 provide "the clerk of the trial court shall certify and transmit to the appellate court clerk the original transcript and copies of all records as required within the time prescribed in the statute." O.C.G.A. 5-3-28(a) provides "within 10 days of the filing of the notice of appeal, it shall be the duty of the judge or the court clerk . . . to cause a true copy of the pleadings . . . to be transmitted to the appellate court.

3. Court Rule 14 provides for default of judgment, failure to respond, and concede.

Respectfully submitted this 1d day of November 2015.

A handwritten signature in black ink, appearing to be 'Neal Howard', written over a horizontal line.

pro se

Neal Howard, 977722  
Ware State Prison  
Waycross, Ga. 31503

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage affixed thereon, to:

PAUL HOWARD  
Fulton County District Attorney  
136 Pryor St. SW  
Atlanta, Ga. 30303

&

Georgia Court of Appeals  
47 Trinity Ave. SW  
Suite 501  
Atlanta, Ga. 30344

This 17 day of November 2015.



pro se

Neal Howard, 977722  
Ware State Prison  
Waycross, Ga. 31503