

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

June 23, 2015

TO: Mr. Darrell Jenkins, GDC326027 L-2-11, Baldwin State Prison, Post Office Box 218,
Hardwick, Georgia 31034

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: Darrell J. Jenkins 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: _____
- 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.
- A Motion for 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 then file an appeal of that decision by filing a Notice of Appeal with the clerk of the superior court.

Your documents are being returned to you.

In The Superior Court of Newton County
STATE OF Georgia

STATE OF Georgia x
vs. x Indictment No. 2001-cr-553-
Darrell J. Jenkins x
Defendant x

MOTION FOR OUT-OF-TIME APPEAL

Now comes The Above named defendant,
by and through his undersigned Attorney,
as shows as follows:

1.) on March 17th 2005 this defendant.
After a Trial by Jury was convicted
of the offense of Possession of
COCAINE COUNT-7. Possession of MARIJUANA
COUNT-8.

2.) on March 17th 2005 the defendant
was sentenced to 15 years in Prison on
COUNT-7. 12 Months in Prison to run
consecutive to COUNT-8 for a total of
16 years in Prison.

3.) COUNT-7 and COUNT-8 Theft by receiving
stolen property was Dead Docket on
January 11-2007 Bill of Indictment COUNT-11
Possession of cocaine COUNT 12 Possession of
MARIJUANA September 11-2001

- 4.) The defendant was represented by privately retained counsel at trial.
- 5.) Following his conviction the defendant's trial attorney did not file a motion for new trial or a notice of appeal.
- 6.) AT NO TIME was the defendant knowingly, voluntarily and intelligently waived his right to an appeal or to the assistance of counsel on appeal. Defendant was not advised that he had a right to an appeal or that he might be entitled to a court appointed attorney to assist him with his appeal if he could not afford private counsel to assist him with his appeal. Defendant has NEVER consented to foregoing his appeal in this matter.
- 7.) Following his conviction and transfer to the state prison system the defendant sought the assistance of the office of the public defender for the Alcovy judicial circuit having been determined to be indigent the undersigned was assigned to assist the defendant with his appeal.
- 8.) In Georgia the defendant in any criminal proceeding in the superior, state, or city courts, may appeal from any sentence, judgment decision.

or degree of the court." O.C.G.A. SEC. 5-6-33.

9.) DEFENSE COUNSEL'S FAILURE TO FILE A NOTICE OF APPEAL IN A TIMELY MANNER CONSTITUTES PER SE INEFFECTIVE ASSISTANCE OF COUNSEL. SEE ROE V.

FLORES-ORTEGA 528 U.S. 470, 120 S. CT 1029

145 ED. 2D 985 (2000) HAYLES V. STATE

227 GA APP. 64. 65. 488 S.E. 2D 119 (1997)

THE RIGHT TO APPEAL IS VIOLATED WHEN THE LAWYER DELIBERATELY (FORGOES) THE DIRECT APPEAL WITHOUT FIRST OBTAINING HIS CLIENT'S CONSENT)

10.) THE CONSTITUTIONAL RIGHT TO COUNSEL INCLUDES THE RIGHT TO COUNSEL ON APPEAL HALBERT V. MICHIGAN 545 U.S.

605, 125 S. CT 2582, 162 L ED 2D 552 (2005)

DOUGLAS V. CALIFORNIA 372 U.S. 353, 83

S. CT 814, 9 L. ED. 2D 211 (1963)

11.) AN OUT-OF-TIME APPEAL IS APPROPRIATE WHERE, AS THE RESULT OF INEFFECTIVE ASSISTANCE OF COUNSEL, A TIMELY DIRECT APPEAL WAS NOT TAKEN IT IS THE REMEDY FOR A FRUSTRATED RIGHT OF APPEAL.

SMITH V. STATE 266 GA. 687, 470 S.E. 2D

436 (1996) HARRIS V. STATE GA APP 754

S.E. 2D 148 NO. A13A 2364. JAN 16-2-14

WHEREFORE THE DEFENDANT HEREBY MOVES

This Honorable Court to schedule a hearing for the purpose of inquiring into the merits of this motion and at the conclusion of said hearing enter an order granting the defendant an out of time appeal and afford him a reasonable time in which to file a motion for new trial or notice of appeal in this case.

Respectfully submitted this motion on the 25
Day of February 2005

Pro SE ~~_____~~

DARRELL J. JENKINS

326027

Baldwin State Prison

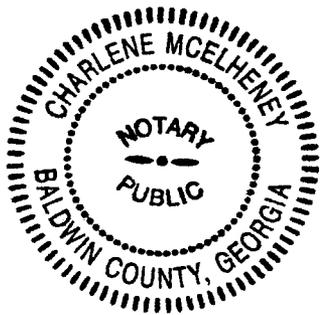
P.O. Box 218

Hardwick, GA 31034

signed before me ~~_____~~ Notary Public

This 25th day of February 2005

My Commission Expires 10-20-18



CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing Party(ies) to this action with a true and correct copy of the within and foregoing Motion For out-of-Time Appeal

by placing a copy of same in the United States Mail, with adequate postage thereon to ensure prompt delivery, and

addressing it to:

Charles McMenomy
Newton County District Attorney
1132 Usher Street
Covington, GA 30014

Linda D. Hays, Clerk
Newton County Superior Court
1132 Usher Street NW Room 3
Covington, GA 30014

This 23 day of May, 2015.

Darrell J. Jenkins
ProSe

Stephen E. Castley
Clerk's Office
Court of Appeals Georgia
Suite 501
47 Trinity Avenue
Atlanta, GA 30334

Darrell J. Jenkins 326027
B.S.P.
P.O. Box 218
Hardwick, GA 30634

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

-VS-

DARRELL J. JENKINS,
APPELLANT,

CRIMINAL ACTION
NO. 2001-553-1

NOTION FOR TIME
CREDIT IN CONFINEMENT

NOTICE OF APPEAL

COMES NOW DARRELL J. JENKINS, APPELLANT PRO-SE, IN THE ABOVE-STYLED ACTION, AND HEREBY GIVES NOTICE OF HIS APPEAL TO THE COURT OF APPEALS OF GEORGIA, FROM THE INSTANT CASE, WHICH DECISION WAS FILED ON THE 17th DAY OF SEPTEMBER, 2014, THE CLERK WILL PLEASE INCLUDE THE ENTIRE RECORD ON APPEAL, INCLUDING THE HEARING TRANSCRIPT, AND ALL FACTS, FINDINGS AND CONCLUSIONS OF LAW, ON WHICH THE COURT'S DECISION WAS BASED, ALL DOCUMENTARY EVIDENCE ADMITTED AND ALL PLEADINGS SUBMITTED TO THE COURT NOTHING SHOULD BE OMITTED FROM THE RECORD ON APPEAL

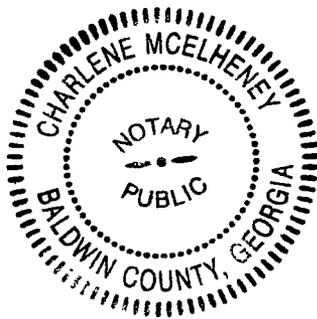
Jurisdiction of this appeal is vested in the
Court of Appeals of Georgia, Georgia Constitution
(1983), ART. VI, SECT. V, Para. III.

Sworn to and subscribed _____
BEFORE ME this 14th day of March 2015

Charlene McElheny

Notary Public

My Commission Expires
11-20-18



Respectfully Submitted
[Signature]
PETITIONER PRO-SE

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE SERVED A CORRECT COPY OF THE FOREGOING NOTICE OF APPEAL BY DEPOSITING A COPY OF THE SAME IN THE U.S. POSTAL SYSTEM WITH ADEQUATE POSTAGE AFFIXED THERETO TO INSURE DELIVERY ADDRESSED AS FOLLOWS.

CHARLES McMELONY
NEWTON COUNTY DISTRICT ATTORNEY
1132 USHER STREET
Covington, GA 30014

STEPHEN E. CASTLE
CLERK'S OFFICE
COURT OF APPEALS, GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA GEORGIA 30334

CLERK'S OFFICE
NEWTON COUNTY SUPERIOR COURT
1132 USHER STREET NW ROOM 338
COVINGTON, GA 30014

Respectfully Submitted

THIS 23rd DAY OF MAY 2015 Darrel J. Jenkins

DARREL J. JENKINS 32602
B.B.S.
P.O. BOX 218
HARDWICK GA 31034

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

v.

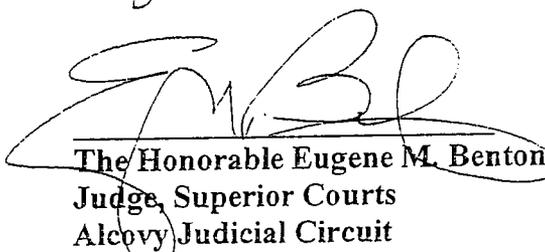
DARRELL JEROME JENKINS.

CRIMINAL ACTION.
NO. 2001-CR-553-1

ORDER

Upon receiving a pro se MOTION FOR RULING from the above-named Defendant and after reviewing the pleadings, file, and applicable statutory and case law. the Court hereby DENIES Defendant's Motion.

SO ORDERED, this 3 day of January, 2014.


The Honorable Eugene M. Benton
Judge, Superior Courts
Alcovy Judicial Circuit

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

v.

DARRELL JEROME JENKINS.

CRIMINAL ACTION.

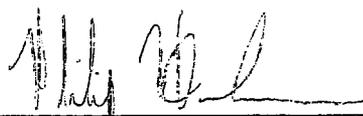
NO. 2001-CR-553-1

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing Order by depositing a copy of same in the United States Postal System with adequate postage affixed thereto to insure delivery, addressed as follows:

Darrell Jenkins
GDC #326027
Phillips State Prison
2989 West Rock Quarry Road
Buford, GA 30519

This 3 day of January, 2014.


Philip Henderson
Law Clerk to the
Honorable Eugene M. Benton
Judge, Superior Courts
Alcovy Judicial Circuit

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

v.

DARRELL J. JENKINS.

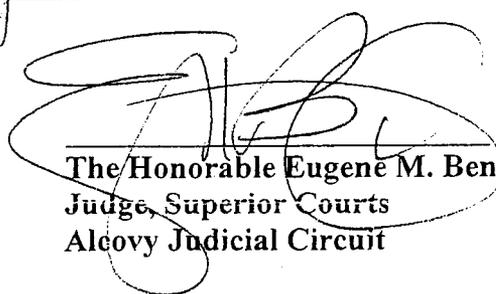
CRIMINAL ACTION.

NO. 2001-553-1

ORDER

Upon receiving a *pro se* MOTION FOR CREDIT TIME IN CONFINEMENT
AWAITING TRIAL OR RESULTING FROM A COURT ORDER from the above-named
Defendant filed August 25, 2014 and after reviewing the pleadings, file, and applicable statutory
and case law, the Court hereby DENIES Defendant's Motion.

SO ORDERED, this 17 day of September, 2014.


The Honorable Eugene M. Benton
Judge, Superior Courts
Alcovy Judicial Circuit

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

v.

DARRELL J. JENKINS.

CRIMINAL ACTION.

NO. 2001-553-1

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing Order by depositing a copy of same in the United States Postal System with adequate postage affixed thereto to insure delivery, addressed as follows:

<p>Darrell J. Jenkins GDC #326027 Baldwin State Prison PO Box 218 Hardwick, GA 31034</p>	<p>Charles McMenemy Newton County DA's Office via Hand-Delivery</p>
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This 17 day of September, 2014.


Philip Henderson
Law Clerk to the
Honorable Eugene M. Benton
Judge, Superior Courts
Alcovy Judicial Circuit



Ezell Brown, Sheriff
15151 Alcovy Road
Newton County, Georgia
678-625-1400

July 17, 2013

Darrell Jenkins #326027
Phillips State Prison
2989 West Rock Quarry Rd.
Buford, Georgia 30519

Dear Mr. Jenkins,

I am enclosing a copy of your Proof of Incarceration (2 pages) for every time you were here beginning on February 16th, 2001. I hope this helps you in some way. Thank you. Have a Blessed Day.

Sincerely,



Gail Brooks, Administrative Tech
Newton County Sheriff's Office
15151 Alcovy Road
Covington, Ga. 30014



Office of Ezell Brown, Sheriff

Captain Sammy Banks
Detention Administrator

15151 Alcovy Road
Covington, Georgia 30014
Office: 678-625-1420
Fax: 678-625-1450

Senior Sgt. Brice Smith
Administrative Sr. Sgt.

PROOF OF INCARCERATION

TO: WHOM IT MAY CONCERN

For your information, Jenkins, Donald is/was incarcerated in the Newton County Law Enforcement Center.

Table with 3 columns: From, To, Charged with. Contains handwritten dates and charges such as 'Burg, Poss Coc, Poss marij.', 'Back for court', etc.

Inmate has/had a court date of _____. Inmate is/was scheduled to be released / transferred on _____.

Inmate Services
Newton County Law Enforcement Center

"Continued" on Page 2



Captain Sammy Banks
Detention Administrator

Office of Ezell Brown, Sheriff

15151 Alcovy Road
Covington, Georgia 30014
Office: 678-625-1420
Fax: 678-625-1450

Senior Sgt. Brice Smith
Administrative Sr. Sgt.

PROOF OF INCARCERATION

TO: WHOM IT MAY CONCERN

For your information, Jenkins, Darrell is/was incarcerated in the Newton County Law Enforcement Center.

From:

To:

Charged with:

07/07/2005
05/16/2013

12/22/2005
06/06/2013

Back for court
Back for court

Inmate has/had a court date of N/A. Inmate is/was scheduled to be released / transferred on 06/06/2013.

Inmate Services
Newton County Law Enforcement Center