



Court of Appeals of Georgia

January 26, 2015

TO: Mr. Elbert Johnson, GDC1000831396, Macon State Prison, Post Office Box 426,
Oglethorpe, Georgia 31068

RE: **A14A1223. Elbert Johnson 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 docketed in this Court on March 6, 2014. It was affirmed on August 12, 2014. The remittitur issued on August 27, 2014, divesting this Court of any further jurisdiction of your case. The case is therefore, final.**

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.

IN THE COURT OF APPEALS FOR THE
STATE OF GEORGIA

Elbert Johnson
(Appellant / Defendant)

Case No. A14A1223

v.
State of Georgia
(Appellee)

OUT OF TIME MOTION REQUESTING ALLOWANCE
OF A RECONSIDERATION DUE TO INEFFECTIVE
ASSISTANCE OF APPELLANT COUNSEL AND ABANDONMENT
OF APPELLANT COUNSEL

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Now comes, the Appellant (Elbert Johnson) Pro-Se due to his appellant counsel (Adam M. Hames) abandoning him and being ineffective. Respectfully request this HONORABLE COURT to allow the appellant to submit an OUT OF TIME MOTION OF RECONSIDERATION in the above caption case.

To support this motion the Appellant shows:

I.

On May 22, 2012 the appellant, Elbert Johnson, was tried before a jury in the Superior Court of Fulton County for the offenses of Aggravated Child Molestation and 2 counts of Child Molestation. On May 25, 2012 he was convicted and sentenced to 45 years to serve / life on probation. On February 18, 2013 the appellant's retained counsel (Adam M. Hames) filed an Appeal before this honorable court .

On August 12, 2014 this HONORABLE COURT affirmed the appellants conviction with the appellant's counsel never appraising him.

II.

During the entire time Mr. Hames represented the appellant he never appraised him of the status of matters after filing his appeal although the appellant repeatedly requested the status of matters (via mail) to be mailed to him. only after the appellant filed a Bar Grievance for violation of State bar of Georgia Rules of Professional Conduct 1.4 did the counsel appraise the Appellant that his appeal was denied.

III.

Appellant's counsel didn't appraise him until over a month that his appeal was denied on August 12, 2014. He printed out an e-mail that he allegedly sent to the appellants sister (whom the appellant had no contact with) and didn't notify the defendant until after he filed a Bar Grievance. The print out shows a production date of 9/15/2014 (a month after this court's ruling).

See: Exhibit "A"

IV.

The Constitution of the United States and Georgia require that the appellant receive effective assistance of counsel in all critical phases of prosecution which include DIRECT APPEAL.

See: Strickland v Washington - 466 US 668 , 104 S.CT. 2052

Gideon v Wainwright – 372 US. 335 (1963)

In the matter of William Patterson – 290 Ga 794 , 725 se2d 252 (2012)

US Constitutional Amendment VI

Georgia Constitution – Article I § 1 ¶ XIV

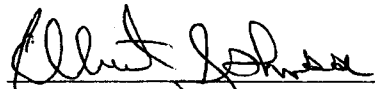
Mr. Hames not only abandoned the appellant, but he overlooked material facts in the record (which were vital errors by trial court and trial counsel.)

V.

The appellant respectfully requests this HONORABLE COURT to allow him to file an OUT OF TIME RECONSIDERATION for this court to consider and possibly grant incompliance to Georgia Court of Appeals Rules , Rule 37(e).

WHEREFORE the Appellant prays this motion be granted or a hearing be held (with a production order) to address the intricate matters contained in the MOTION before this HONORABLE COURT.

Respectfully submitted this 14th day of January 2015



Elber Johnson, Jr. (Appellant, Pro-Se)

Marcus Wright



Elbert Johnson, Jr.
GDC#: 1000831396
Macon State Prison
PO Box 426
Oglethorpe, Ga. 31068

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).

Chief Judge of Georgia Court of Appeals
47 Trinity Ave., S.W.
Atlanta, Ga. 30334

This the 14th day of January, 20 15.

Signature

Elbert Johnson

Elbert Johnson, Jr.

6DC#: 1000831396

Macon State Prison

P.O. Box 426

Oglethorpe, Ga. 31068

c.c. Clerk of Ga. Court of Appeals
Paul Howard, D.A., Fulton Co, Ga.