

IN THE GEORGIA COURT OF APPEALS

STATE OF GEORGIA

V

Ricky Johnson

Indictment No:

07CR2301-6

July 9, 2015

Dear Chief Judge Herbert E. Phipps, Complaint

RECEIVED IN OFFICE  
2015 JUL 16 PM 3:48

I Ricky Johnson hereby Declares:

I am in the DeKalb County Jail on a Probation Revocation order that does not exist anymore. I have been in Jail since May 28, 2014. The Georgia State Pardons and Paroles along with the Georgia Department of Corrections both have confirmed that this Probation was terminated as of Sept. 13, 2013. I serve a State Prison Sentence from Gwinnett County from Sept 12, 2010. up to Sept 13, 2013. While in State Prison I filed what call a Production Demand for Final disposition to resolve all pending charges O.C.G. A 42-6-1 et. seq. The state fail to bring defendant back to court to handle any pending charges within (120) days and the state fail so the case terminated by operation of law pursuant O.C.G. A 42-6-1 et. seq. When the state fail to bring defendant to court within the time frame set by the Georgia legislature in the statute. Judge Phipps the Judge in this case was former Judge Cynthia J. Becker DeKalb Superior Court of Stone Mountain Judicial Circuit. And on June 17, 2014. In a hearing she acknowledge to the defendant and his  
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his attorney that Mr. Johnson I see in the record you filed a production order but she disregarded it and on Oct 9, 2014, she ordered me to jail for not paying restitution in the amount of \$ 3,967.00. All in full. Based on the facts Judge Becker never made an inquiry into the defendant's ability to pay, Chief Judge Phipps the point is this probation does not exist anymore the action the judge took to revoke the defendant's probation and to put the defendant in jail until the restitution is paid is void pursuant to O.C.G.A. Section 17-9-4 because the judge was without subject matter jurisdiction to enter such an order since the probation case had terminated by operation of O.C.G.A. Section 42-6-1 et seq. when the state had failed to bring the defendant to court within (120) days as set out in the statute to resolve the case. As of May 26, 2015, I filed a motion for immediate release. And recently I filed an amendment to the motion for immediate release on May 26, 2015, citing United States Supreme Court in the case of Bearden v. Georgia 461 U.S. 660 (1983) held in 1983 that it is unconstitutional to revoke someone's probation if they do not have the ability to pay and I am indigent too poor to pay. The Georgia Court of Appeals has likewise held in the case of Johnson v. State 307 Ga App. 570 (2011) it's unconstitutional to lock up a man if he does not have the ability to pay.

Chief Judge Phipps as of July 6, 2015. I am still in the DeKalb County Jail illegally on a void order that as of June 15, 2015. My wife Jacquelyn Johnson spoken to DeKalb County Central Local Probation Office they inform her that I have no probation in DeKalb County at all. I have been in jail since May 28, 2014 and the balance was a total of 3 years left and I have been in jail since May 28, 2014. But the \$3,967.00 does not affect anytime I have done on the time. It is very clear I am being held illegally for \$3,967.00. My wife and I have no assets nor does any other family members. I have a wife and two girls that are ages 18, and 16 years old that needs a father and a wife needs her husband. Chief Judge Phipps if need be you can contact my wife Jacquelyn for any more information at 678 297-0395. I am enclosing a copies of the motion that way filed. I just cannot understand why the courts are holding me in jail for an order that does not exist anymore. This is a violation of the United States Supreme court and Georgia Court of Appeals. Chief Judge Phipps I have been deprived <sup>of</sup> life liberty and the pursuit of happiness under Declaration of Independence, under Universal Declaration of Human Rights. Article(7) All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection

against any discrimination in violation of this Declaration and against any incitement to such discrimination. And Article (4) No one shall be held in slavery or servitude Slavery and the slave trade shall be prohibited in all their forms. And 14th Amendment of the United States Constitution. Chief Judge Phipps I have no ideal when I will be going back to court on the motion I filed. A deprivation of all rights under the law along with my due process under the law. Illegally holding anyone in jail for monies of a fine is excessive and a violation of 8th Amendment of the constitution. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. However Judge Phipps the judicial system is supposed to be a system of dispensing justice that is not concerned with profitability. I am not in breach of any contract of probation in DeKalb County it does not exist. My G.O.C # 725504.

Your prompt response is appreciated

Ricky Johnson X0146176  
4415 Memorial Dr.  
Decatur, GA 30032  
5 NW. Room 301

Chief Judge Phipps I am seeking Relief from the Georgia Court of Appeals to Force The DeKalb County Superior Court to Follow the United States Supreme Court Under Bearden v. Georgia 461 U.S. 660 (1983) And the Georgia Court of Appeals, Johnson v. State 307 GA. App. 570. To Follow all Constitutional laws of the land and Follow The State Court of Appeals laws of Georgia and Give Ricky Johnson the Relief of a Immediate Under the law. Judge I may have to File a Appeal to the court of Appeals.

What is the Clerk of Georgia Sincerely  
Court Appeals Address

So if I need it I have Ricky Johnson

IT.

IN THE SUPERIOR COURT OF DEKALB COUNTY

THE STATE OF GEORGIA  
V.  
RICKY EDWARD JOHNSON

INDICTMENT NO. 07CR2201-6

EXPIRATION DATE: 013/17

PROBATION REVOCATION ORDER

The Petition for Revocation of the Defendant's probation filed on the July 15, 2014 having been heard, and after hearing evidence, the Court makes the following findings of fact:

- Defendant has committed the subsequent offense(s) of Theft by Deception, Theft by Taking and Theft by Receiving
- Defendant has failed to abide by the following terms and conditions of probation:
  - Failure to report  Failure to pay fees and restitution
  - Failure to pay restitution  Failure to complete Community Service
  - Failure to advise Probation Officer of current residence address/employment
  - Failure to complete \_\_\_\_\_
  - Other \_\_\_\_\_

IT IS CONSIDERED, ORDERED AND ADJUDGED that the Defendant has violated the terms of probation ordered by the court on Oct 4, 2007; therefore:

- Balance of probation revoked, Suspended upon payment of \$3907.00 Payable to Nordstrom's. revoked, remainder on probation under conditions originally imposed.
- \_\_\_\_\_ revoked, probation terminated upon completion of this sentence.
- Credit for time served since May 28, 2014
- Additional condition of probation: \_\_\_\_\_

FIRST OFFENDER STATUS & SENTENCE VACATED; ADJUDICATION OF GUILT ENTERED; RESENTENCED TO:

Confinement for a period of \_\_\_\_\_ in the State Penal System or such other institution as the Commission of the State Department of Offender Rehabilitation may direct, to be computed as provided by law.

HOWEVER, IT IS FURTHER ORDERED BY THE COURT:

- That above sentence may be served on probation.
- Upon service of \_\_\_\_\_ of the above sentenced, the remainder of \_\_\_\_\_ may be served on probation.
- Defendant shall receive credit for time served in custody since \_\_\_\_\_.
- Defendant is receive credit for time already served on probation that is to be applied to the probated portion of the sentence, not the term of incarceration.
- The defendant has been granted the privilege of serving all or part of the above-stated sentence on probation and must comply with the following general and other conditions of probation hereby imposed by the Court as a part of this sentence. The defendant shall:
  - Not violate any State or Federal laws.
  - Make regular reports to the Adult Probation Officer of DeKalb County as directed.
  - Keep the Adult Probation Officer informed at all times of the defendant's place of employment and residence address.
  - From time to time upon oral or written request by any probation officer, produce a breath, urine and/or blood specimen for analysis for the possible presence of a substance prohibited or controlled by law of the State of Georgia or of the United States.
  - Pay a fine in the amount of \$ \_\_\_\_\_, plus \$50.00 or 10% of said fine, whichever is less pursuant to the court costs in the amount \$ \_\_\_\_\_ through the Adult Probation Officer as provided by said officer.
  - Other condition(s) of probation: \_\_\_\_\_

Probation Reinstated  Petition Withdrawn  Petition Dismissed  Probation Closed.

SO ORDERED, this 9<sup>th</sup> day of October, 2014.

Order Prepared by:  
William M. Clark  
Assistant District Attorney  
Stone Mountain Judicial Circuit  
556 N. McDonough Street  
Decatur, Georgia 30030  
Bar Number: 128162  
o) 404-371-2561  
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e) wmcclarkt@dekalbcountyga.gov

*[Signature]*  
CYNTHIA J. BECKER, JUDGE  
DEKALB SUPERIOR COURT  
STONE MOUNTAIN JUDICIAL CIRCUIT

sd in Open Court  
9 day of Oct 20 14  
deputy clerk  
2487



**Court of Appeals of Georgia**

July 20, 2015

TO: Mr. Ricky J. Johnson , XO146176, 5NW Room 301, DeKalb County Jail, 4415 Memorial Drive, Decatur, Georgia 30032

RE: **Ricky 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 \_\_\_\_\_ on \_\_\_\_\_ . The remittitur issued on \_\_\_\_\_ , 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.**

**Your correspondence was addressed to Chief Judge Herbert E. Phipps of this Court. Pursuant to the Code of Judicial Conduct and the rules and the policies of this Court, the judges of this Court are not permitted to communicate with parties who have a case before the Court or which may come before the Court.**

**Therefore, your correspondence is being returned to you.**