

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 7, 2015

To: Mr. Mark J. Kerlin, GDC403306 E-2, Dooly State Prison, Post Office Box 750,
Unadilla, Georgia 31091

Case Number: _____ Lower Court: _____ County Superior Court

Court of Appeals Case Number and Style: _____

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 the Georgia Supreme Court rather than the Court of Appeals of Georgia. The address of the Clerk of the Georgia Supreme Court is: 244 Washington Street, S.W. • Suite 572, Atlanta, Georgia 30334.**
- 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.

IN THE SUPREME COURT
STATE OF GEORGIA

MARK KERLIN

v.

CARTER BROWN
CITY OF LAFAYETTE
COUNTY OF WALKER

PETITION FOR WRIT
OF HABEAS CORPUS

MARK KERLIN, PRO SE

GDC #403306

DOOLY STATE PRISON

P.O. BOX 750

UNADILLA, GEORGIA

31091

RECEIVED IN OFFICE
2015 JUL 26 PM 3:32
CLERK/ROOM ADMINISTRATION
COURT OF APPEALS

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE.

PETITIONER:

PRO SE

DEFENDANTS/APPELLEES:

CARTER BROWN;

CITY OF LAFAYETTE;

COUNTY OF WALKER.

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TYPE OF CASE WITH JUDGMENT APPEALED AND

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QUESTIONS PRESENTED

1. APPEAL NO.: A15D0348.

SHOULD AN INDIGENT PRO SE PRISONER WHO DILIGENTLY SEEKS LEGITIMATE REDRESS BE HELD RESPONSIBLE FOR THE PRISON'S DELAYS IN THE MAILING OUT OF LEGAL PLEADINGS THAT ARE SUBSEQUENTLY ADJUDICATED UNTIMELY WHEN THE UNTIMELINESS IS DUE SOLELY TO THE PRISON'S DELAYS ?

2. APPEAL NO.: A15A1792

WHEN AN INDIGENT PRO SE PRISONER TIMELY MAILES AN APPLICATION FOR DISCRETIONARY APPEAL AND IS DENIED APPEAL AS IT WAS UNTIMELY RECEIVED DUE TO THE PRISON'S DELAYS IN MAILING SAME, AND TEN DAYS LATER, WHEN THE COURT OF APPEALS RESCINDS THAT ORDER WHEN IT DISCOVERS PROOF OF ITS MISTAKE, GIVING PETITIONER A "NOTICE OF DISCRETIONARY DIRECT APPEAL" AND PETITIONER TIMELY FILES A DIRECT APPEAL PURSUANT TO THE SPECIFIC LANGUAGE OF O.C.G.A. §5-6-35(9), DOES THIS AMOUNT TO CERTIORARI REVIEW WHEN THE APPEAL IS DENIED BECAUSE PETITIONER DID NOT FILE A SECOND APPLICATION FOR DISCRETIONARY APPEAL ?

IN THE SUPREME COURT
STATE OF GEORGIA

MARK KERLIN,
PETITIONER

V.

CARTER BROWN,
CITY OF LAFAYETTE,
COUNTY OF WALKER,
DEFENDANTS.

*
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*
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CASE NO.: _____

PETITION FOR WRIT OF CERTIORARI

PETITIONER ABOVE-NAMED RESPECTFULLY REQUESTS CERTIORARI REVIEW OF THE JUNE 15, 2015 DECISION AND ORDER TO DISMISS AS UNTIMELY HIS APPEAL.

THIS THE 24TH DAY OF JUNE, 2015.

RESPECTFULLY SUBMITTED,



MARK J. KERLIN

STATEMENT OF JURISDICTION

PURSUANT TO O.C.G.A. §5-6-15, THE WRIT OF CERTIORARI SHALL LIE FROM THE SUPREME COURT TO THE COURT OF APPEALS AS PROVIDED BY ARTICLE VII, SECTION VI, PARAGRAPH V OF THE CONSTITUTION OF THIS STATE.

STATEMENT OF FACTS

THE INITIAL INCIDENT, THE THEFT BY CONVERSION, OCCURRED ON FEBRUARY 7, 2012, AND PETITIONER FILED INFORMAL GRIEVANCE THAT DAY.

FOLLOWING MULTIPLE LETTERS TO AND INTERVIEWS WITH PRISON STAFF, INCLUDING ASSISTANT WARDENS, THE WARDEN, INTERNAL AFFAIRS, AND THE GRIEVANCE COORDINATOR, PETITIONER FOLLOWED SAID STAFF'S ADVICE AND FILED ANOTHER INFORMAL GRIEVANCE ON APRIL 19, 2012, AND THEN INITIATED HIS CIVIL ACTION — ALSO ON THE ADVICE OF SAID STAFF.

FOLLOWING A TREMENDOUS AMOUNT RETALIATIONS, SOME OF LIFE-THREATENING, FOR FILING SAID SUIT, PETITIONER FILED WITH THE MONROE COUNTY SUPERIOR COURT ON MAY 24, 2013 HIS COMPLAINT FOR TEMPORARY RESTRAINING ORDER AND INJUNCTION AGAINST THOSE RESPONSIBLE FOR RETALIATING AGAINST HIM, BUT SAID COMPLAINT WAS EVENTUALLY DENIED FOR IMPROPER JURISDICTION. AND THE RETALIATIONS CONTINUED DESPITE PETITIONER'S BEGGING AND PLEADING FOR HELP NOT ONLY FROM THE WARDEN AND ASSISTANT WARDENS AND OTHER STAFF — THE VERY PEOPLE WHO TOLD ME THAT I HAD TO FILE SUIT IN ORDER TO RECEIVE ANY REDRESS FROM THE INITIAL INCIDENT — BUT ALSO FROM THE C.F.O. OF CORRECTIONS CORPORATION OF AMERICA, THE COMMISSIONER OF GEORGIA D.O.C., THE GOVERNOR OF GEORGIA, AND SEVERAL OTHERS. ALL TO NO AVAL.

WHEN THE C.F.O. OF C.C.A. SENT MY LETTER BACK TO THE PRISON'S WARDEN I WAS IMMEDIATELY THROWN IN ISOLATION IN A CELL COVERED

IN BLOOD AND FECES, GIVEN NO CLEANING MATERIALS, AND KEPT IN THERE FOR 32 DAYS, NOT ALLOWED TO RESPOND TO A REQUEST BY THIS COURT, AND THEN TRANSFERRED TO ANOTHER PRISON ON JANUARY 7, 2014.

THE CLERK OF THE SUPERIOR COURT WHERE MY COMPLAINT WAS FILED CHOSE TO IGNORE ALL THE RULES OF THE COURT AND "SERVED" TO THE DEFENDANTS MY COMPLAINT, SUMMONS, WAIVER, AND EVERYTHING ELSE VIA CERTIFIED MAIL. THE DEFENDANTS MOTIONED FOR DISMISSAL FOR FAILURE OF PROPER SERVICE, AND THE TRIAL COURT SUSTAINED THE MOTION OVER AMPLE EVIDENCE THAT IT WAS THE CLERK WHO CHOSE THE UNLAWFUL METHOD OF SERVICE, THE AMPLE EVIDENCE THAT THE CLERK REFUSED TO PERFORM HIS LAWFUL DUTIES CAUSING THE UNLAWFUL SERVICE OF PROCESS. THE TIMELY APPLICATION FOR DISCRETIONARY APPEAL WAS DENIED ON OCTOBER 16, 2014 (A15D0074).

ON FEBRUARY 3, 2015 I FILED SUIT AGAINST CARTER BROWN, ET AL., FOR DENYING ME ACCESS TO THE COURTS, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS, AND FOR UNCONSTITUTIONAL EXISTING POLICIES WHICH ALLOWED OR FAILED TO SUPERVISE SUCH ABUSES OF LAWFUL DUTIES, AND I SUPPORTED THESE CLAIMS WITH AMPLE PROOF AND AUTHORITY.

ON FEBRUARY 27, 2015 THE TRIAL COURT IGNORED THE AMPLE EVIDENCE AND CONTROLLING AUTHORITY AND FILED AN ORDER NOT TO FILE THE COMPLAINT PURSUANT TO O.C.G.A. § 9-15-2(d), AND DENIED MY REQUEST FOR FINDING OF FACTS AND CONCLUSIONS OF LAW AS "MOOT".

ON MARCH 17, 2015 I TIMELY MAILED MY APPLICATION FOR DISCRETIONARY

APPEAL TO THE COURT OF APPEALS (A15DO348) AND AT THE SAME TIME MAILED MY NOTICE OF APPEAL TO THE TRIAL COURT CLERK'S OFFICE. THE TRIAL COURT RECEIVED AND FILED MY NOTICE OF APPEAL ON MARCH 23, 2015, BUT THIS PRISON'S MAILROOM AND BUSINESS OFFICE PERSONNEL DELAYED MAILING MY APPLICATION FOR DISCRETIONARY APPEAL UNTIL APRIL 1ST, 2015, AND SAID WAS FILED BY THE COURT OF APPEALS ON APRIL 2, 2015.

ON APRIL 28, 2015 THE COURT OF APPEALS DISMISSED MY APPLICATION, STATING THAT MY REQUEST FOR DISCRETIONARY REVIEW WAS FILED 34 DAYS AFTER ENTRY OF THE ORDER I WAS APPEALING (SEE EXHIBIT #1, ORDER, ATTACHED).

ON MAY 4, 2015 THE TRIAL COURT FILED WITH THE COURT OF APPEALS ITS RECORD ON APPEAL, SHOWING THE COURT OF APPEALS THAT I HAD INDEED PLACED IN THE MAILBOX TO BE MAILED OUT ON MARCH 17, 2015 MY NOTICE OF APPEAL AND MY APPLICATION FOR DISCRETIONARY APPEAL, THAT THE TRIAL COURT STAMPED RECEIPT DATE WAS "MARCH 23, 2015."

SOMEONE FROM THE COURT OF APPEALS DISCOVERED THAT A MISTAKE HAD BEEN MADE, THAT I ACTUALLY DID TIMELY FILE MY APPLICATION FOR DISCRETIONARY APPEAL PURSUANT TO THE RULES OF THE COURT OF APPEALS OF THE STATE OF GEORGIA RULE 4 (d), FILING BY PRO SE PRISONERS (ALMOST IDENTICAL TO THIS THE SUPREME COURT'S RULE 13(2)), BY PLACING MY PLEADING IN THE PRISON'S INTERNAL MAILBOX ON MARCH 17, 2015, AND THE COURT OF APPEALS ~~and promptly~~ RECALLED ITS APRIL 28, 2015 ORDER TO DISMISS AS UNTIMELY AND ON MAY 18, 2015 INSTRUCTED THE CLERK TO ISSUE A DOCKET NUMBER AND BRIEFING SCHEDULE, OBVIOUSLY GRANTING THE

APPLICATION FOR DISCRETIONARY REVIEW AND ALLOWING ME TO PROCEED ON DIRECT APPEAL PURSUANT TO THE LANGUAGE OF O.C.G.A. §§ 5-6-35 AND 42-12-8, IN WHICH § 5-6-35 (9) STATES WHEN GRANTED DISCRETIONARY REVIEW THE APPLICANT IS TO THEN PROCEED "THE SAME AS IN OTHER APPEALS" (SEE: EXHIBIT #2, NOTICE OF DOCKETING - DIRECT APPEAL, APPEAL CASE NUMBER: A15A1792, ATTACHED) AND ON JUNE 3, 2015 I TIMELY MAILED MY BRIEF IN SUPPORT OF APPEAL AS PER THE RULES OF THE COURT OF APPEALS.

AND ON JUNE 15, 2015 THE COURT OF APPEALS AGAIN DISMISSED MY APPEAL STATING THAT I WAS SUPPOSED TO FILE ANOTHER APPLICATION FOR DISCRETIONARY APPEAL BEFORE BEING ALLOWED TO PROCEED ON DIRECT APPEAL, EVEN MISTAKENLY INTERPRETING THAT MY COMPLAINT WAS DENIED PAUPERS STATUS WHEN THE TRIAL COURT NEVER GAVE ANY FINDING OF FACTS AND CONCLUSIONS OF LAW AS TO WHY IT DENIED UNDER O.C.G.A. § 9-15-2 (d) (WHICH HAS NOTHING AT ALL TO DO WITH DENYING PAUPERS STATUS), EVEN IGNORING MY MOTION FOR FINDING OF FACTS AND CONCLUSIONS LAW WHEN THIS COURT AND THE COURT OF APPEALS HELD IN NUMEROUS CASES THAT A TRIAL COURT MUST GIVE FINDING OF FACTS AND CONCLUSIONS OF LAW WHEN DENYING A COMPLAINT UNDER § 9-15-2 (d) (PLEASE SEE: EXHIBIT #3, ORDER DISMISSING APPEAL, CASE NO.: A15A192, ATTACHED).

REASONS FOR GRANTING CERTIORARI

THE TRIAL COURT'S RULING HAD NOTHING AT ALL TO DO WITH ANY QUESTIONS OF MY ABILITY OR INABILITY TO PAY COSTS, NOR WAS THERE ANY CHALLENGE TO MY AFFIDAVIT OF INDIGENCY. D.C.G.A. § 9-15-2(d) DEALS STRICTLY WITH A PLEADING SUBMITTED BY A PRO SE LITIGANT TO AND REVIEWED BY A JUDGE OF THE COURT TO DETERMINE WHETHER OR NOT "THE PLEADING SHOWS ON ITS FACE SUCH A COMPLETE ABSENCE OF ANY JUSTICIABLE ISSUE OF LAW OR FACT THAT IT CANNOT BE REASONABLY BELIEVED THAT THE COURT COULD GRANT ANY RELIEF AGAINST ANY PARTY NAMED IN THE PLEADING." THE COURT'S DENIAL WAS VOID OF ANY SUCH REASONING. I CLAIMED AND PRODUCED AMPLE SUPPORTIVE EVIDENCE TO PROVE THE MERITS OF MY CLAIMS OF THE DEFENDANTS' DENIAL OF MY RIGHTS ~~OF~~ ACCESS TO THE COURTS, TO DUE PROCESS, AND TO EQUAL PROTECTION OF THE LAWS.

THE COURT AND THE GEORGIA COURT OF APPEALS HELD IN SEVERAL CASES THE TRIAL COURT MUST VIEW THE EVIDENCE GIVEN AND MUST BASE ITS FINDING OF FACTS AND CONCLUSIONS OF LAW ON THE MERITS OF THE CLAIMS AND SUPPORTING EVIDENCE AND AUTHORITY PRESENTED AND PERTINENT AUTHORITY. SEE: WILLIAMS V. SPANDALAKIS, 265 GA. 693, 461 S.E.2D 226 (1995); VERDI V. WILKINSON COUNTY, 288 GA. APP. 856, 655 S.E.2D 642 (2007); ALI V. ROSS, 292 GA. 86, 734 S.E.2D 882 (2012).

IN THE ORDER OF QUESTIONS PRESENTED, PAGE "iii", SUPRA.

1. APPEAL No.: A15D0348.

PURSUANT TO RULE 4(d), FILING BY PRO SE PRISONERS, OF THE RULES OF THE GEORGIA COURT OF APPEALS, PLEADINGS BY PRO SE PRISONERS "SHALL BE DEEMED FILED ON THE DATE THE PRISONER DELIVERS THE DOCUMENT TO PRISON OFFICIALS FOR FORWARDING TO THE CLERK OF THE COURT OF APPEALS."

AS AN INDIGENT PRO SE PRISONER I AM SUBJECT TO THE PRISON'S LOCAL OPERATING PROCEDURES AND WHIMS IN PROCESSING AND MAILING OUT OF LEGAL PLEADINGS. BUT AS THIS COURT HELD IN SAPP V. GEM LINE, INC., 267 GA. 438, 479 S.E.2D 712 (1997), CERTIORARI WAS GRANTED WHEN THE GEORGIA COURT OF APPEALS UNFAIRLY DENIED DISCRETIONARY REVIEW AS UNTIMELY WHEN PROOF OF FILING WAS SUFFICIENT TO PROVE TIMELINESS OF FILING. NOT ONLY IS MY CERTIFICATE OF SERVICE ATTACHED TO THE APPLICATION FOR DISCRETIONARY APPEAL SHOWING THAT I TIMELY PLACED THE APPLICATION IN THE PRISON'S INTERNAL MAILBOX TO BE PROCESSED AND MAILED OUT, I'VE ALSO GOT THE INDIGENT POSTAGE REQUEST FORMS PROCESSED BY THE MAILROOM AND BUSINESS OFFICE TO PROVE THE APPLICATION WAS PLACED IN THE MAILBOX ON MARCH 17, 2015.

2. APPEAL No.: A15A1792

IT DID APPEAR THAT THE COURT OF APPEALS, WHEN IT DISCOVERED THAT IT ERRONEOUSLY DENIED AS UNTIMELY MY APPLICATION FOR DISCRETIONARY APPEAL, *sub sponte* RESCINDED THAT DENIAL, GRANTED MY APPLICATION, AND INSTRUCTED THE CLERK'S OFFICE TO ISSUE A DOCKETING NUMBER AND

BRIEFING SCHEDULE FOR DIRECT APPEAL. THE COURT OF APPEALS HAS MADE such
spontaneous DECISIONS BEFORE, EVEN THIS COURT HAS MADE SUCH CHANGES
AND DECISIONS and spontaneous.

ALTHOUGH I FOLLOWED THE STATUTORY LAW AND RULES IN TIMELY
FILING MY DIRECT APPEAL AS INSTRUCTED, MY APPEAL WAS DENIED BECAUSE
I DID NOT AGAIN REQUEST PERMISSION FOR DISCRETIONARY APPEAL.

SOMEONE IN THE COURT OF APPEALS MADE SOME SERIOUS MISTAKES
AND I AM UNFAIRLY BEING HELD RESPONSIBLE.

CONCLUSION

PETITIONER HAS DEMONSTRATED THROUGH EVIDENCE, LAWS, AND SOUND
ARGUMENT THAT THE GEORGIA COURT OF APPEALS UNFAIRLY DISMISSED HIS
APPEAL AND HE RESPECTFULLY REQUESTS THIS HONORABLE COURT TO GRANT
CERTIORARI IN THIS MATTER.

THIS THE 24TH DAY OF JUNE, 2015.

BY:

MARK KERLIN
GDC# 403306
DOOLY STATE PRISON
P.O. BOX 750
UNADILLA, GA 31091


MARK J. KERLIN

Court of Appeals of the State of Georgia

ATLANTA, April 28, 2015

The Court of Appeals hereby passes the following order:

A15D0348. MARK J. KERLIN v. CARTER BROWN et al.

Prison inmate Mark Kerlin attempted to file a pro se civil action against Walker County Superior Court Clerk Carter Brown, the City of LaFayette, and Walker County, claiming an intentional tort for the denial of his constitutional rights. On February 27, 2015, the trial court dismissed his petition pursuant to OCGA § 9-15-2 (d). On April 2, 2015, Kerlin filed this application for discretionary appeal, seeking review of the February 27, 2015 order.¹ We lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d). A party's failure to meet this statutory deadline deprives us of jurisdiction to consider the application. *Hill v. State*, 204 Ga. App. 582, 583 (420 SE2d 393) (1992). Because Kerlin filed this application 34 days after entry of the order he wishes to appeal, it is untimely. The application is therefore DISMISSED for lack of jurisdiction.

¹ Because he was incarcerated when he initiated this action, Kerlin's appeal is controlled by the Prison Litigation Reform Act of 1996, OCGA § 42-12-1 et seq. Under OCGA § 42-12-8, "[a]ppeals of all actions filed by prisoners shall be as provided in Code Section 5-6-35," the discretionary appeals statute.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 04/28/2015

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Stephen E. Castle

, Clerk.

COURT OF APPEALS OF GEORGIA

47 Trinity Avenue, S.W., Suite 501

Atlanta, Georgia 30334

(404)656-3450

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

NOTICE OF DOCKETING - DIRECT APPEAL

APPEAL CASE NUMBER: A15A1792

DATE OF DOCKETING: May 18, 2015

STYLE: MARK KERLIN v. CARTER BROWN, et al.

IMPORTANT RULE REQUIREMENTS AND INFORMATION

Briefs: Appellant's brief (including an Enumeration of Errors as Part II) shall be filed within 20 days of the date on this docketing notice. Appellee's brief shall be filed within 40 days after the docketing date or 20 days after the filing of the appellant's brief whichever is later. Requests for extensions of time to file briefs must be made by motion. Failure to timely file briefs or to follow any Court rules or orders may cause the appeal to be dismissed or may cause non-consideration of a brief and may subject the offender to contempt.

Filing Fees: No appellant's brief shall be received for filing without the \$300.00 filing fee except for those Appellants who are: 1) incarcerated and pro se, 2) represented by appointed counsel/public defender, or 3) paupers (with affidavit).

Related Cases: Attorneys must notify the Court if the above-styled case is related to any other case that is or was docketed in the Court. (E-filers file this as "Information" on the Docket. Hard copy submissions should be by separate letter to the Clerk.)

Attorneys: Attorneys: Note that Rule 46 requires that all submissions be via electronic format. E-filing instructions are found at www.gaappeals.us.

Pro Se Filing by US Postal Mail or Delivery Service: The contents of a properly addressed mailing other than a motion for reconsideration shall be deemed filed on the date of the U.S. Postal Service postmark date if it is stamped on the envelope or container. A filing received from an overnight delivery service is deemed filed on the date shown on the envelope or container. If no date appears on the container or envelope of a mailing or delivery, the contents shall be deemed filed on the date of receipt by the court. **Motions for reconsideration are deemed filed on the date the motion is physically received in the Clerk's office, i.e., the postmark date is not relevant.**

Oral Argument: A Request for Oral Argument shall be filed within 20 days of the date on this docketing notice. If oral argument is requested and granted by this Court, the argument is tentatively scheduled for Sep 23 2015 before the Second Division: P. J., Andrews, J., Miller, J., Branch. A calendar will be sent to counsel of record confirming the exact date of oral argument. If the calendar has not been received at least ten days prior to the tentative oral argument date, please contact the Clerk's office.

Communications: There shall be no communications relating to pending appeals with any judge or member of the judge's staff.

Court of Appeals of the State of Georgia

ATLANTA, June 15, 2015

The Court of Appeals hereby passes the following order:

A15A1792. MARK KERLIN v. CARTER BROWN, et al.

The superior court refused prison inmate Mark Kerlin's request to proceed *in forma pauperis* and denied the filing of his civil complaint against Carter Brown, City of Lafayette, and County of Walker. Kerlin then filed this direct appeal. We, however, lack jurisdiction.

Because Kerlin is incarcerated, his appeal is controlled by the Prison Litigation Reform Act of 1996, OCGA § 42-12-1 et seq. Under OCGA § 42-12-8, an appeal of a civil action filed by a prisoner "shall be as provided in Code Section 5-6-35." And under OCGA § 5-6-35, the party wishing to appeal must file an application for discretionary appeal to the appropriate appellate court. Because a prisoner has no right of direct appeal in civil cases, we lack jurisdiction to consider this direct appeal from the superior court's order. See *Jones v. Townsend*, 267 Ga. 489 (480 SE2d 24) (1997). This appeal is therefore DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 06/15/2015

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Stephen E. Costello

, Clerk.

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE ON THIS DAY SERVED THE BELOW-LISTED PARTIES THE ORIGINAL AND OR COPY OF MY PETITION FOR WRIT OF HABEAS CORPUS BY PLACING SAME IN CORRECTLY ADDRESSED ENVELOPES AND ATTACHING THERETO AN INDIGENT POSTAGE REQUEST FORM AND PLACING SAME IN THE PRISON'S INTERNAL MAILBOX TO BE PROCESSED AND MAILED OUT.

THIS THE 24TH DAY OF JUNE, 2015.

PARTIES SERVED:

OFFICE OF THE CLERK,
SUPREME COURT OF GEORGIA
244 WASHINGTON ST., S.W.,
ROOM 572
ATLANTA, GA 30334


MARK J. KERLIN

OFFICE OF THE CLERK,
COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GA 30334

HERBERT E. FRANKLIN
DISTRICT ATTORNEY
LOOKOUT MOUNTAIN JUDICIAL CIRCUIT
WALKER COUNTY JUDICIARY ANNEX
108 EAST VILLANOVA STREET
LAFAYETTE, GA 30728-1025

TO: CLERK OF GEORGIA SUPREME COURT
FM: MARK J. KERLIN
DT: JUNE 24, 2015
RE: WRIT OF CERTIORARI

DEAR CLERK:

PLEASE FIND ENCLOSED MY REQUEST TO PROCEED IN FORMA
PAUPERIS AND THE ORIGINAL AND COPY OF MY WRIT OF CERTIORARI
WITH ATTACHED CERTIFICATE OF SERVICE SHOWING I HAVE ALSO
SERVED THE CLERK OF THE COURT OF APPEALS AND THE
ATTORNEY FOR THE SUPERIOR COURT AND DEFENDANTS.

I HOPE YOU FIND EVERYTHING IN ORDER.

THANK YOU FOR YOUR TIME AND AID IN THIS MATTER.

KIND REGARDS,

Mark J. Kerlin

MARK J. KERLIN
403306 E-2
DOOLY STATE PRISON
P.O. BOX 750
UNADILLA, GA 31091

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CC: CLERK OF COURT OF APPEALS
ATTY. FOR SUPERIOR CT. AND DEFENDANTS.