

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

August 7, 2015

To: Mr. Gary L. King, Post Office Box 1524, Covington, Georgia 30015

Docket Number: A15A0140 **Style:** King v. Heritage Healthcare of Moultrie

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 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: Court of Appeals Rule 37(d). No party shall file a second Motion for Reconsideration unless permitted by order of the Court.**

For Additional information, please go to the Court's website at: www.gaappeals.us

Copy

Administrative Office of the Courts of Georgia
244 Washington Street, SW Suite 300
Atlanta, Georgia 30334

July 16, 2015

RE: King V. Heritage Healthcare of Moultrie
Case Number A15A0140
REQUEST FOR REVIEW

I Gary Louis King present this claim for review under the penalty perjury for statement present herein that is true or to the best of my knowledge.

I'm asking for this review to prevent a continuing injustice by the Clerk(s) of the Superior Court of Colquitt County Georgia, and the State Court of Appeals of Georgia (Atlanta). The Court records are not complete with the facts of the case to allow the Clerk of Court for Georgia Appeals Court to dismiss my rights to appeal. Here's Why:

Clerk's Order dated June 16, 2015 denied or dismissed my appeal for failure to timely file a notice of appeal, citing OCGA 5-6-48 (b)(1) in which I agree give the Clerk the authority to dismiss my appeal. I asked that said order be reconsidered, and provided evidence in support of, and was denied the same July 8, 2015 without a reason or consideration of the evidence that would have led to a different conclusion. ENCLOSED COPY OF MOTION FOR RECONSIDERATION.

As I explained I could not have filed another notice of appeal when I argued to the Superior Court Clerk that the initial reasoning for denying my Notice Of Appeal was wrong. The Order dated November 19, 2012 denying Notice to Appeal final order from arbitration, but prior to said order I filed a motion objecting to the defendants proposed Order file on November 19, 2012. The Order denying me the rights to appeal was based on a violation of OCGA 5-6-48(c) failure to pay cost. It's important to understand that I filed a motion objecting to the proposed order (this was an order written by the defendants and adopted by the court) and was filed on the same day as the denial November 19, 2012. ENCLOSED DOCKET SHEET. Ten (10) days had not passed which would have allowed me the time to file a notice of appeal, but this notice could not have been filed until the Superior Court makes a ruling on the Motion Objecting to the proposed Order. Pursuant to Uniform Superior Court Rule 6.2 responding to motions, also OCGA 15-6-12(b)(d) in Jefferson-Pilot Fire V. Combs 166 Ga. App. 274, 304 S.E2d 448 "this court

has repeatedly sent the message that the notice requirement applies to final judgment as well as decision on motion” The Superior Court never addressed the motion. Through continues contact with the Superior Court Clerks From November 19, 2012 until July 11, 2014 the Court and Clerk refuse to address whether I had violate OCGA 5-6-48(c) A request was made by me asking the Clerk’s Office to provide me with a copy of the Court’s Order denying my Motion Objecting to the proposed order which argued that I had not violate 5-6-48(c) June 28, 2014 as referenced in the Clerk’s letter dated July 11, 2014. ENCLOSED CLERK’S LETTER and as you will note that the Clerk and the Judge considered whether I had violated 5-6-48(c) failure to pay, and determined that that section may not apply in this circumstance, and there was NO ORDER PREPARED NOR FILED with my office AND THAT IS WHY I DID NOT MAIL YOU A COPY. No order filed nor mailed to me, so how could I have appealed what was not provided for me to appeal to or for? This matter was concerning “Bill of Cost for Appeal” Once the Clerk and the Court determined I had not violated that section I was allowed to pay the Bill Cost for Appeals, but the record was not corrected to reflect that I had wrongly been denied a right to appeal the final order of arbitration. It took from November 19, 2012 until July 11, 2014 for the Court to admit it had made an error by denying me the rights to appeal final order from arbitration as it states in the letter enclosed. No correction of the records was made by the Superior Court Clerk, but I was allowed to pay and the records was sent forward to the State of Georgia Courts of Appeal.

I asked the Clerk of the Appeals Court of Georgia to reconsider its order dismissing my appeal. It is clear that the Clerk never considered the evidence I provided to prevent this injustice, and here’s why: Questions should have been answered; Considering the records and evidence provide by Mr. King was Mr. King Appeal Notice denied? Was Mr. King Motion with objections to the proposed order pending from November 19, 2012 until July 11, 2014? Could Mr. King have filed another Notice of Appeal if the Motion was still pending? Why would Mr. King have to file another Notice of Appeal if it has been determined that the Superior Court Clerk and the Court itself denied Appeal without proper cause? Why would Mr. King have to file another Notice of Appeal if the notice of appeal was not denied, and Mr. King was allowed to pay Bill of Cost July 11, 2014 because of the courts error? Considering All evidence was Mr. King Appeal Notice denied?, and therefore making Mr. King have to file another notice of intent to appeal from that final order? Considering All facts did Mr. King violate the State of Georgia Court

of Appeal by not filing another notice within ten (10) days as ordered when the Oder itself was not corrected to reflect that Mr. King rights to appeal was wrongly decided? If Mr. King was granted the right to proceed on appeal, why would Mr. King have to file another notice of appeal? And appealing what if Mr. King was allowed to proceed as the letter stated July 11, 2014? And finally, If the Superior Court Clerk and the Court (Judge Horkan) determined Mr. King had been wrongly denied the right to appeal, and allowed to do so, why wouldn't the State of Georgia Court of Appeals Clerk would not accept this as evidence when denying Mr. King's motion for reconsideration?

I have been now put in a position that I now have to Appeal the Clerk's Order denying me the rights to appeal, but I call upon this panel to correct this wrong. And be reminded that Under Rule 15 Court of Appeals, that public officials have a particular responsibility to ensure that they have a reasonable basis for their position in litigation, because they represent "a government agency spending the taxpayers' money". *Fulton County Bd. Of Taxes Assessors V. Harmon Bros. Charter Serv.* 261 Ga. App. 534, 538. 583 S.E2d 179 (2003)

As I explained in my reconsideration motion, no harms have been done, because this case has been briefed by ALL parties and Reply brief filed with the Court of Appeals, the defendant's have not raised an objection to the letter dated July 11, 2014 allowing me to proceed. And I have not violated OCGA 5-6-48(b)(1) failure to file a notice of appeal as explained above.

Perhaps this panel can get the Clerk Mr. Stephen E. Castlen to explain its basis for this denial and not even considering OCGA 5-6-30 ect al. 5-6-48 that would have allowed this appeal to proceed because there have been no violations of 5-6-48(b)(1) when considering the facts of the case.

Simply making me Appeal this order is simply putting me through unnecessary changes, and perhaps other pitfalls. This would be simply spending taxpayers money for something that can be correct at the State Appeals Court.

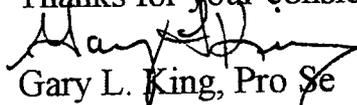
I am being put through this because of an error of the Superior Court of Colquitt County Ga. in which was corrected by them, but the records does not reflect this correction, and the Superior Court Clerk explained this in its letter dated July 11, 2014 and allowed me to proceed with the appeal.

Therefore, I'm calling on this Panel to prevent this continuing injustice, and unnecessary delays in justice. This is a unique situation to appeal a Clerk's

Order dismissing my appeal, when I think that a panel or one judge should determine if I have violated 5-6-48(b)(1) when considering the facts or perhaps reconsidering the statutes interpretation as it applies in a situation like this one. When it took the lower court one year and a half to correct a mistake showing that I had not violated failure to pay cost. Should this be appealed to the Georgia Supreme Court or should a Judge in the Appeals Court make a ruling, because the Clerk refuses to address the evidence provided that would allow this appeal to proceed, and as already stated the case have been briefed by all parties in the Appeals Court addressing the merits of the claims raised. There would be no harm to any party if this case was allowed to proceed with the appeals process. Again, hopefully the Clerk Mr. Castlen will explain his position for that dismissing my appeal to this panel.

The Citizens Guide for Appeals does not explain how to appeal a Clerk's order and to whom this appeal should be sent, therefore I will file a Notice with intent to appeal the Clerk's Order with the Appeals Court Requesting that a panel of judges or a judge at that level make a ruling. But, I would hope that this Panel steps in a make a determination that this would be a waist of time considering the evidence to put Mr. King through this ongoing injustice and allow the appeal to proceed as filed and briefed.

Thanks for your consideration in advance, and hopefully a prompt response.



Gary L. King, Pro Se
P.O. Box 1524

Covington, Ga. 30015-1524

Phone: 470-899-3950

CC: Appeals Court Clerk Mr. Castlen

COURTS OF APPEALS
OF THE STATE OF GEORGIA
ATLANTA

Gary L. King,
Appellant

Vs.

No: A15A0140

Heritage Healthcare of Moultrie, LLC

RECEIVED IN OFFICE
2015 JUL 31 PM 1:04
CLERK/COURT ADMINISTRATION
COURT OF APPEALS OF GA

NOTICE WITH INTEN TO APPEAL ORDER DATED JULY 8, 2015/
REQUESTING THAT A PANEL OF JUDGES
OR A JUDGE AT THIS LEVEL OF APPEALS
MAKES A RULING ON THE CLERK'S ORDER
DISMISSING APPEAL

Comes now Gary Louis King in the above caption case put this court on notice with the intent to appeal/requesting that this appeal be handled at this level be a panel of judges or a judge.

In so doing I'm requesting that I be allowed to present this claim before a panel before pursuing certiorari to the Supreme Court of Georgia, because this would prevent spending taxpayers money, and would allow this Court to correct an error of misinterpretations of the statutes as it applies to this unique situation. However, this Notice is interpreted it remains my position that justice delayed is justice denied.

Done this 16th day of July 2015



Gary Louis King

P.O. Box 1524

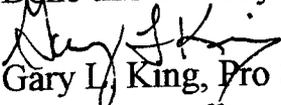
Covington, Ga. 30015-1524

Phone: 470-899-3950

CERTIFICATE OF SERVICE

I do hereby certify that true and correct copy I have affixed with proper postage and mailed a copy to the following address: Court of Appeals of Georgia 47 Trinity Ave. SW Suite 501 Atlanta, Ga. 30334

Done this 16th day of July 2015


Gary L. King, Pro SE
Appellant

cc: At judicial office of the Courts of Georgia.