

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

October 2, 2015

To: Mr. Kenneth Gregory Lewis, GDC275494, Long State Prison, Post Office Box 70,  
Ludowici, Georgia 31316

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).

**Your Notice of Appeal was filed with the clerk of the trial court on September 23, 2015.**

**We cannot locate a copy of the order dated September 8, 2015 in your documents. Therefore, this Court is unable to file your appeal, as presented.**

**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. The mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W., Suite 572, Atlanta, Georgia 30334.

**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.

IN THE GEORGIA COURT OF APPEALS

CASE NO. \_\_\_\_\_

KENNETH GREGORY LEWIS

PROSECUTOR GENERAL

*[Handwritten signature]*  
SECRETARY

*If this doesn't  
contain a copy  
of order referenced  
9/8/15  
return*

GIA

L

CR-444

SUPERIOR COURT

ING

VOID SENTENCE

LEA ON COUNT

NMATE

M.A., M.E

V P.O. BOX

31316

*NOA was filed  
9/23/15 in L/C*

*If everything okay  
to process as  
D. app.*

*patky,  
let me know  
Thanks  
LL*

*\*Sept 8th, 2015  
motion to vacate  
is NOT a final  
order only motion  
to courts  
He has everything  
unless I docket  
from sentence  
sheet. What do  
you think. He  
says he is appealing  
from 9/8/15.*

IN THE GEORGIA COURT OF APPEALS

KENNETH GREGORY LEWIS

pro se, Appellant

Case No. \_\_\_\_\_

VS.

05-CR-444 ON APPEAL

STATE OF GEORGIA

Appellee

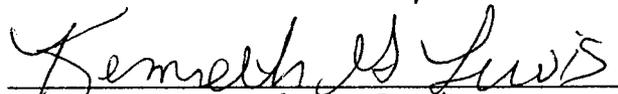
DIRECT APPEAL

Comes Now the Defendant and appeals the decision and final order of the Paulding County Superior Court, entered on the 8<sup>th</sup> day of Sept, 2015, denying the Appellants Motion to Vacate an unlawful, Void Sentence and Withdraw Guilty Plea to Count One.

Appellate jurisdiction resides in the Court of Appeals under State Constitution Art. VI, Sec. V, Para. III, and denial of a motion contesting a void sentence is appealable as a matter of right. An Affidavit of informa pauperis is attached hereto, along with a copy of the motion that was filed and denied by the Court.

Respectfully Submitted

this 18<sup>th</sup> day of Sept., 2015.

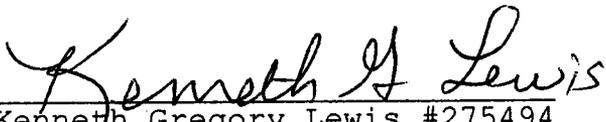
  
\_\_\_\_\_  
Kenneth G. Lewis  
pro se Defendant

CERTIFICATE OF SERVICE

The Appellant hereby certifies that he has served a copy of the notice of appeal upon the Paulding County District Attorney by deposit in the U.S. Mail using sufficient postage and properly addressed to :

Paulding County District Attorney  
Paulding County Justice Center  
280 Constitutional Blvd.  
Dallas, Georgia 30132

So Stated this 18<sup>th</sup> day of Sept., 2015.

  
Kenneth Gregory Lewis #275494

pro se Appellant

05CR-444 ON APPEAL

Long State Prison  
P.O. Box 70  
Ludowici, Ga. 31316

IN THE PAULDING COUNTY SUPERIOR COURT  
STATE OF GEORGIA

STATE OF GEORGIA

CRIMINAL CASE

VS.

05-CR-444

KENNETH GREGORY LEWIS  
pro se, DEFENDANT

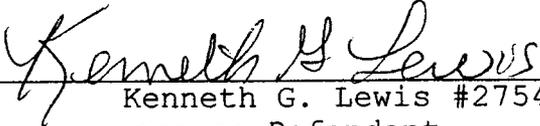
NOTICE OF APPEAL

Notice is hereby given that Kenneth G. Lewis now appeals the decision and Final Order of the Paulding County Superior Court dated 8<sup>th</sup>, Sept, 2015, denying the Defendants Motion to Vacate Void Sentence and Withdraw Guilty Plea to Count One.

The Clerk will please forward a copy of the Sentencing Transcript; Sentencing Clarification Hearing; 2006 Final Disposition; the Defendants 2014 Motion to Vacate Unlawful, Void Sentence and Withdraw Guilty Plea; and the Courts decision and Final Order on the above motion.

Affidavit of Informa Pauperis is attached hereto.

Respectfully Submitted this 18<sup>th</sup> day of Sept., 2015

  
\_\_\_\_\_  
Kenneth G. Lewis #275494  
pro se Defendant

Long State Prison  
P.O. Box 70  
Ludowici, Ga. 31316

CERTIFICATE OF SERVICE

The Defendant hereby certifies that he has served a copy of this notice of appeal upon the Paulding County District Attorney by deposit in the U.S. Mail using sufficient postage and properly addressed to:

Paulding County District Attorney  
Paulding County Justice Center  
280 Constitution Blvd.  
Dallas, Georgia 30132-4616

So Stated this 18<sup>th</sup> day of Sept., 2015 <sup>R</sup>

Kenneth G. Lewis

Kenneth Gregory Lewis, #275494

pro se Defendant

Case 05-CR-444

Long State Prison

P.O. Box 70

Ludowici, Ga. 31316

IN THE  
PAULDING COUNTY SUPERIOR COURT

STATE OF GEORGIA

VS.

KENNETH GREGORY LEWIS

PRO SE DEFENDANT

CASE NUMBER 05CR-444

*Motion filed  
and Denied*

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MOTION TO  
VACATE UNLAWFUL AND VOID SENTENCE ON COUNT ONE

MOTION TO  
WITHDRAW GUILTY PLEA TO COUNT ONE

---

PRO SE INMATE  
KENNETH G. LEWIS, M.A., M.Ed., Ed.S.

#275494

LONG STATE PRISON

P.O. BOX 70

LUDOWICI, GEORGIA 31316

IN THE PAULDING COUNTY SUPERIOR COURT  
STATE OF GEORGIA

STATE OF GEORGIA

CRIMINAL CASE

VS.

05-CR-444

KENNETH GREGORY LEWIS  
pro se defendant

MOTION TO  
VACATE AN UNLAWFUL AND VOID SENTENCE ON COUNT ONE

MOTION TO  
WITHDRAW NON-NEGOTIATED GUILTY PLEA TO COUNT ONE

Comes Now the pro se Defendant and moves this Honorable Court to vacate an unlawful sentence, and void Final Disposition, and further moves to withdraw his non-negotiated guilty plea to count one:

1. Any sentence entered in a criminal case which is unauthorized by law is a nullity and void, and the court may resentence the defendant at any time. But the court may not amend the original sentence as there is no valid sentence to amend. Mullins V. State, 134 Ga. App. 243, [1], [2], [3], [4], 214 S.E. 2d 1 (1975) remaining good law.

2. On March 06, 2006, the Defendant entered a non-negotiated guilty plea to eleven felony counts for sexual acts with a teenaged girl. On March 21, 2006, the Court imposed sentence, and it held a Sentencing Modification Hearing on March 25, 2006. Copies of both records are attached hereto and incorporated herein.

3. The oral and written sentence on count one is unlawful, and the signed Final Disposition is also invalid and a nullity. The only remedy is to resentence the Defendant on count one, and reissue a new, valid final order. Prior to resentencing, the Defendant herein moves to withdraw his non-negotiated guilty plea to count one.

#### **UNLAWFUL SENTENCE**

4. The oral and written sentence imposed on count one clearly violates statutory law O.C.G.A. § 17-10-1 (a) (4) which plainly states: "In cases of imprisonment, followed by probation, the SENTENCE SHALL SPECIFICALLY PROVIDE that the period of probation shall not begin until the defendant has completed the confinement portion of his sentence."

5. On count one the Trial Court imposed 10 years of imprisonment followed by 20 years of probation. Another 10 years of imprisonment was imposed on count two and was

specifically ordered to run consecutive to serving the sentence on count one. An additional 5 years of imprisonment and then 5 more years of probation were imposed on other counts to run concurrent but consecutive to count two. (Def. Ex. A. sentencing transcript p. 5, Lines 1-25); (Def. Ex. B., Modification Hearing p. 2, Lines 12-25).

6. Because the oral and written sentence [Final Disposition] on count one clearly violates the specific and mandatory sentencing requirements of O.C.G.A. § 17-10-1 (a) (4), the sentence imposed on count one is not lawful and imposes punishment [a sentence] the law does not allow. Also, the Final Disposition imposes two, different sentences which is **not a clerical error.**

7. State statutes are construed strictly against the State, and "When the language of a statute is plain and unequivocal, judicial construction is not only unnecessary but is forbidden. "Fleming v. State, 271 Ga. 587, 523 S.E. 2d 315 (1999) at 589. **Emphasis added.**

8. "Any sentence or portion thereof that is unauthorized by law is a nullity and is void...and is equal to no sentence at all." Sumner v. State, 284 Ga. App. 308, [2], [3], [4], [6], 643 S.E. 2d 831 (2007) at 835.

9. A sentence is void and must be vacated for resentencing that does "not comply with express terms of State statute, "even if the sentence imposed falls within the legal minimum and maximum penalty allowed under law. New V. State, 327 Ga. App. 87, [12], [13], A13A2391, 755 S.E. 2d 568 (2014) at 586; Sumner, supra at [1], 834.

10. Nowhere in the Courts oral pronouncement at sentencing does the Court state or declare any intent to order a sentence that complies with this statute. In fact, the Court imposed a sentence that specifically orders otherwise: that the 10 year sentence of confinement on count two will be served consecutive to the 10 years of prison and 20 years of probation imposed on count one. (Def. Ex. A, p. 5, Lines 1-16). The Court clearly states: "That's the sentence I'm going to impose." (p. 6, Line 13).  
**Emphasis added.**

11. Four days later, at the Sentencing Modification Hearing, the Court had an opportunity to reform or modify the sentence to comply with the mandatory requirements of § 17-10-1 (a) (4), it does not. The Court could have imposed a compliant sentence or declared such intent as an order in the record. The Court did not, and it cannot be presumed from silence that the Courts unspoken intent was to comply



with the statute where it takes no action to do so and specifically orders otherwise on record.

12. The Final Disposition does impose the same unlawful sentence that was orally pronounced. The written sentence in the signed final order, including how that sentence will be served, must conform to the oral pronouncement and sentencing intent of the court as it plainly appears in the sentencing transcript. It may not order a sentence that was never pronounced on the record. The final order may only "speak the truth". Chaney v. State, 281 Ga. 481, [3], 640 S.E. 2d 37 (2007) at 483.

**FINAL DISPOSITION IS A NULLITY**

13. The written Final Order also imposes two different sentences creating an indeterminate sentence that is open to variant interpretation by outside parties. This is not a clerical error. A greater **50** year sentence shown in the long-hand section reflects what the court orally imposed on count one at sentencing, but the Court admits on record that it did not intend. (Def. Ex. B, p. 2, Lines 12-25). A lesser sentence of **40** years that appears in the numeric total is the sentence the Court admits it intended, thought it had passed, but never imposed. (Def. Ex. B, p.3, Line 15).

14. The Final Disposition (a form merely recommended under U.S.C.R.) cannot impose a sentence the Court declares it never intended and cannot order a sentence the Court intended but never imposed; however, it orders both. This is not a typo and not a clerical error, and the Final Disposition is a nullity where it imposes two different sentences and neither are correct nor valid.

15. While the signed order is the legal sentence of the Court, that written order is a nullity and requires resentencing, where it does not conform to the oral sentence and how that will be served. The written order may only speak the truth as shown in the sentencing transcript. Resentencing on count one is required. Chaney v. State, 281 Ga. 481, 640 S.E. 2d 37 (2007) at 483.

16. The written order on count one also violates O.C.G.A. § 17-10-1 (a)(1) which states the "judge shall prescribe a determinate sentence." Because the oral and written sentence is open to variant interpretation in number of years and how it will be served, it is not determinate.

"A sentence must conform to all State statutory requirements, and it follows that an indeterminate sentence is void and must be vacated." Kaiser V. State 285 Ga. App.63, 646 S.E. 2d 84 (2007) at 64.

17. "Sentences for criminal offenses shall be certain, definite, and free from any ambiguity, and where the contrary appears, the benefit shall go to the accused" in favor of liberty. Buice v. Bryan, 212 Ga. 508, 510, [3], 93 S.E. 2d 676 (1956).

18. Where ambiguity exists between the oral and written sentence, the written sentence controls. But when the written order is equally confusing on its face, and the sentencing record (Modification Hearing) is also unclear and lacks certainty, then resentencing is the only solution. Grant V. State, 195 Ga. App. 463, 393 S.E. 2d 737 (1990) at 465.

19. Where a sentence is unlawful the court has an obligation to vacate that sentence for resentencing as there can be no expectation of finality until a valid sentence is imposed. Kaiser V. State, 285 Ga. App. 63, [5], [6], [7], [8], 646 S.E. 2d 84 (2007), Mullins, supra.

20. Until a lawful sentence is imposed, the defendant retains the unqualified right to withdraw his guilty plea, even beyond the term of court. Kaiser V. State, supra, [9], [10] at 66 citing Mullins V. State, 134 Ga. App. 243, 214 S.E. 2d 1 (1975) as good law.

21. A defendant may withdraw a guilty plea at any time prior to oral pronouncement of the sentence, and the courts have defined the law to mean a "valid sentence." Mullins [6] at 243. Therefore, the time limit for withdrawing a guilty plea does not begin to run where the oral sentence imposed is unlawful and a nullity, thereby over-ruling Jarrett V. State, 217 Ga. App. 627 (1995) and affirming Mullins as good law. Kaiser V. State, 285 Ga. App. 63, 646 S.E. 2d 84 (2007) at 66-67, 88-89. Pierce V. State, 294 Ga. 842, 755 S.E. 2d. 732 (2014) at 844.

22. After vacating the unlawful sentence and the guilty plea on count one, the sentences imposed on all remaining counts are valid and lawful, and the plea may not be withdrawn. All time served on an invalidated sentence or charge should be applied to other sentences or charges that remain valid. Jackson V. Jones, 254 Ga. 127, [1], 128-129, 327 S.E. 2d 206 (1985). Blitz v. U.S., 153 U.S. 308, 317-318, 14 S. Ct. 924, 928 (1894).

WHEREFORE, the Defendant prays:

- a) the unlawful sentence on count one be vacated;
- b) the Defendant be allowed to withdraw his non-negotiated guilty plea to count one;
- c) that the 10 years already served on count one be applied to count two, leaving 10 years pending with 5 more to serve;
- d) that new written order be issued into the record, and so properly dispose of the case.

Respectfully Submitted this

30<sup>th</sup> day of January, 2015 Ⓟ

Kenneth G Lewis

Kenneth Gregory Lewis, #275494

pro se Defendant

Case 05CR-444

Long State Prison

P.O. Box 70

Ludowici, Ga. 31316

CERTIFICATE OF SERVICE

The Defendant hereby certifies that the foregoing

- 1) Motion to Vacate Unlawful and Void Sentence
- 2) Motion to Withdraw Guilty Plea to Count One

are true and correct and have been served on the Paulding County District Attorney by deposit in the U.S. Mail, postage prepaid, and properly addressed as:

Paulding County D.A.  
The Paulding County Justice Center  
280 Constitutional Blvd.  
Dallas, Georgia 30132

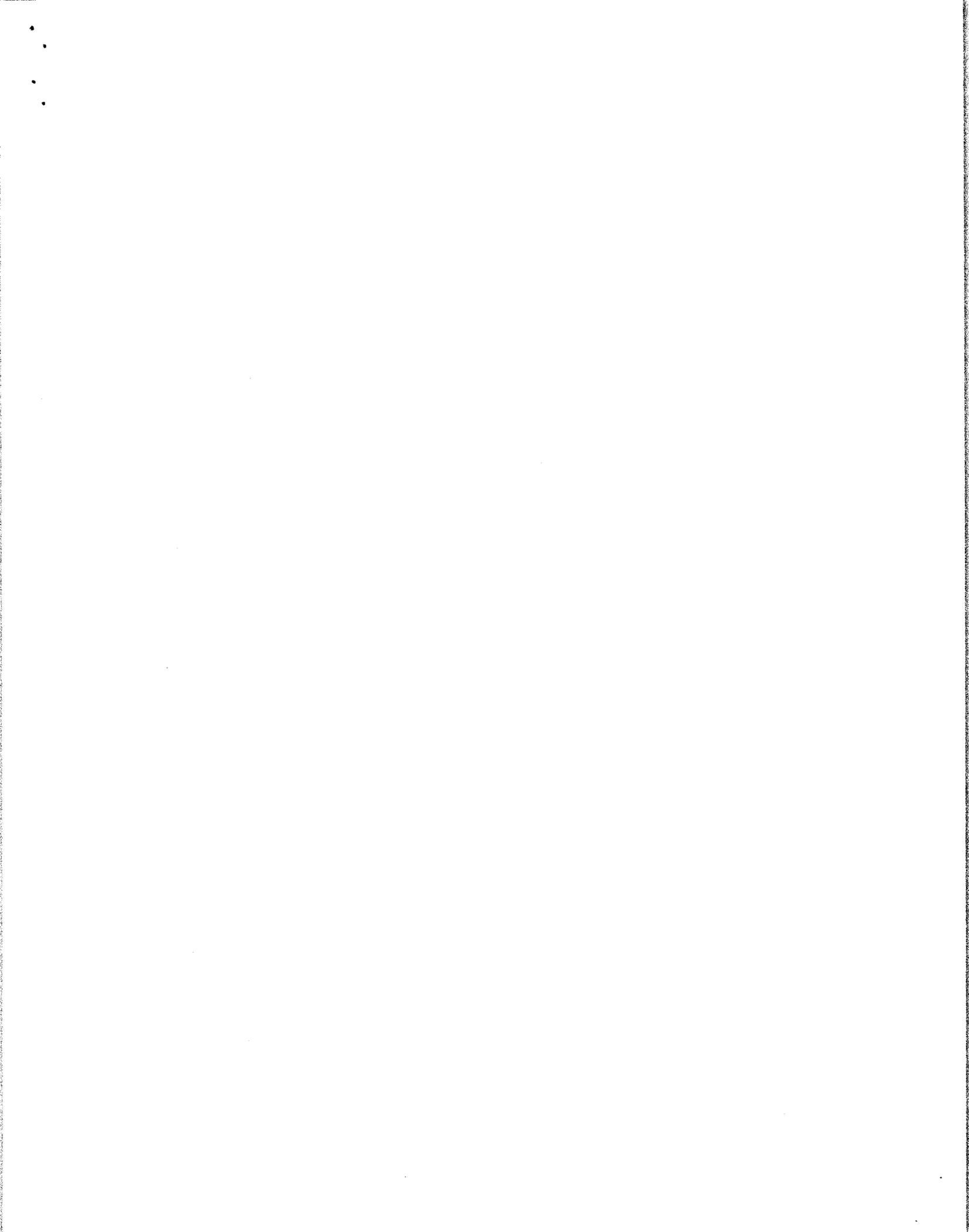
So Stated this 30<sup>th</sup> day of January, 2015 <sup>(P)</sup>

Kenneth G. Lewis  
Kenneth Gregory Lewis #275494

pro se Defendant

Case 05CR-444

Long State Prison  
P.O. Box 70  
Ludowici, Ga. 31316



IN THE SUPERIOR COURT OF PAULDING COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA  
VERSUS  
KENNETH G. LEWIS  
DEFENDANT.

CASE NUMBER

~~04GR-405~~

DS-CR-444

PAULDING COUNTY COURTS

TREVA M. BRILLIANT  
CLERK

06 MAY -3 PM 2:24

FILED IN OFFICE  
PAULDING COUNTY, GA

SENTENCE OF THE COURT

THE TRANSCRIPT OF THE PROCEEDINGS BEFORE HONORABLE  
TONNY S. BEAVERS ON THE 21<sup>ST</sup> DAY OF MARCH, 2006, IN THE  
SUPERIOR COURT OF PAULDING COUNTY, DALLAS, PAULDING  
COUNTY, GEORGIA.

APPEARANCE OF COUNSEL:

ON BEHALF OF THE STATE:  
TONY VOLKODAV  
ASSISTANT DISTRICT ATTORNEY

ON BEHALF OF THE DEFENDANT:  
CHARLES NORMAN  
ATTORNEY AT LAW

NANCY C. MINTZ  
CERTIFIED COURT REPORTER  
PAULDING JUDICIAL CIRCUIT

1 HAVE THIS INTRODUCTION AND THIS MANUSCRIPT IS WRITTEN FOR  
2 THE PURPOSE, YOU STATE IN YOUR INTRODUCTION, AS A WARNING  
3 TO OTHERS WHO MIGHT FALL VICTIM TO THE SAME MISFORTUNE.

4 YOU GO ON THROUGH SEVERAL CHAPTERS OF THE BOOK, A  
5 GOOD MANY CHAPTERS OF THE BOOK, AND YOU COME DOWN TO A  
6 PORTION WHERE YOU LEFT PAULDING COUNTY AND YOU WOUND UP  
7 SOMEWHERE AROUND VALDOSTA, GEORGIA.

8 THE WORDING THAT YOU USE FOR THINGS THAT HAPPENED IN  
9 VALDOSTA, GEORGIA, READ ALMOST LIKE SOME KIND OF BARBARA  
10 CARTLIN NOVEL, DANIELLE STEELE, OR WHOEVER THE MALE  
11 COUNTERPARTS ARE THAT WRITE THOSE THINGS. I WON'T BORE YOU  
12 WITH THE WORDING OF IT, BUT IT'S RATHER RACY WORDING.

13 AND THEN YOU COME DOWN INTO YOUR LATTER CHAPTERS,  
14 AND YOU STARTED DRAWING, I GUESS I'LL CALL THEM  
15 CONCLUSIONS, AND YOU MAKE CONCLUSIONS SUCH AS YOUR ACTIONS  
16 IS NO WORSE THAN OTHERS' ACTIONS THAT ARE TAKING PLACE;  
17 THAT, IN SOMEWHAT, YOU ARE A VICTIM OF THE SYSTEM.

18 YOU TALK ABOUT PRISONS BEING BAD PLACES, AND I KNOW  
19 YOU'VE WORKED AROUND THE PRISON SYSTEM TO SOME DEGREE.  
20 YOU TALK ABOUT IT BEING INHUMAN; THAT IT DOES NOT  
21 REHABILITATE. THAT IF IT DOES, IN FACT, REHABILITATE,  
22 THEN A PERSON SHOULDN'T BE IMPRISONED ANY LONGER THAN  
23 NECESSARY FOR REHABILITATION.

24 AND YOU MAKE SOME STATEMENTS THAT WOULD LEAD ME TO  
25 BELIEVE THAT YOU BELIEVE YOU'RE REHABILITATED. YOU'VE

1 LOST YOUR FAMILY, YOU'VE LOST YOUR POSSESSIONS.

2 AND THEN I GET DOWN TO THE LAST CHAPTER. AFTER YOU  
3 SAY SOCIETY SHOULDN'T BE TERRIBLY UPSET WITH YOU, I GUESS,  
4 BECAUSE YOU'RE NO DIFFERENT, NO WORSE, NO BETTER THAN  
5 OTHERS. YOU GET DOWN TO THIS LAST CHAPTER WHICH READS --  
6 THAT'S CHAPTER SEVENTY-EIGHT, WHICH READS LIKE:

7 "STEPDAUGHTER AND I ARE OKAY WITH WHAT HAS HAPPENED, AND  
8 THAT WE WILL BE TOGETHER AGAIN SOMETIME LATER." AT LEAST  
9 IN YOUR MIND -- I DON'T KNOW THAT SHE MADE THESE  
10 STATEMENTS, BUT AT LEAST IN YOUR MIND.

11 BUT IT'S INTERESTING. IT HAS SOME STRANGE QUALITIES  
12 ABOUT IT. IT SEEMS TO BOUNCE AROUND.

13 **THE DEFENDANT:** IT WAS WRITTEN DURING SOLITARY  
14 CONFINEMENT, AND I WAS TRYING TO UNDERSTAND WHAT TO  
15 BELIEVE AND KNOW AND EVERYTHING.

16 **THE COURT:** HOW DID IT GET TYPED?

17 **THE DEFENDANT:** I'M SORRY?

18 **THE COURT:** WHO TYPED IT?

19 **THE DEFENDANT:** I WOULD WRITE IT, AND I WOULD SEND IT  
20 TO MY MOTHER, AND SHE WOULD TYPE IT AND SEND IT BACK. IT  
21 WAS MY ATTEMPT TO STRUGGLE THROUGH MY UNDERSTANDING OF  
22 THINGS.

23 **THE COURT:** I SEE. ALL RIGHT. MR. LEWIS, HAVING  
24 ALREADY ACCEPTED YOUR PLEA, AND FOUND IT TO BE FREELY AND  
25 VOLUNTARILY ENTERED, AS TO COUNT ONE, WE WILL SENTENCE YOU

1 TO THIRTY YEARS TO SERVE TEN OF THOSE IN THE STATE  
2 PENITENTIARY. THE BALANCE CAN BE SERVED ON PROBATION  
3 UNDER THE STANDARD CONDITIONS OF PROBATION AND AS TO THE  
4 SEXUAL OFFENDER STANDARDS.

5 AS TO -- AND NO CONTACT -- NO CONTACT WITH THE YOUNG  
6 LADY, STEPDAUGHTER. YOU UNDERSTAND WHO I'M TALKING ABOUT.  
7 THAT YOU'RE TO HAVE NO CONTACT WITH HER.

8 MR. VOLKODAV, DID THAT REQUEST ALSO APPLY TO THE EX-  
9 WIFE?

10 MR. VOLKODAV: YES.

11 THE COURT: AND AS TO YOUR FORMER SPOUSE, TOO. YOU  
12 UNDERSTAND THAT? SHE AND HER FAMILY.

13 THE DEFENDANT: (NODS HEAD AFFIRMATIVELY.)

14 THE COURT: AS TO COUNT TWO, WE'LL SENTENCE YOU TO  
15 TEN YEARS TO SERVE. THAT WILL BE CONSECUTIVE TO COUNT  
16 ONE.

17 AS TO COUNT THREE, WE'LL SENTENCE YOU TO TEN YEARS TO  
18 SERVE. YOU CAN SERVE THAT CONCURRENT WITH COUNT ONE.

19 AS TO COUNTS THIRTEEN, FOURTEEN, FIFTEEN, SIXTEEN AND  
20 SEVENTEEN, WE'LL SENTENCE YOU TO TEN YEARS TO SERVE FIVE  
21 IN THE PENITENTIARY SYSTEM. THAT WILL BE CONSECUTIVE TO  
22 COUNT TWO. THE BALANCE OF THAT TEN YEARS YOU CAN SERVE  
23 UNDER PROBATION UNDER THE SAME CONDITIONS. YOU CAN SAY  
24 THAT'S COUNT THIRTEEN.

25 AS TO FOURTEEN, FIFTEEN, SIXTEEN, AND SEVENTEEN,

1 WE'LL ENTER THE SAME SENTENCE ON THOSE, BUT THEY ARE  
2 CONCURRENT WITH EACH OTHER AND CONCURRENT WITH COUNT  
3 THIRTEEN.

4 LET'S JUST MAKE IT EASY. I'LL DO THE SAME THING ON  
5 TWENTY-ONE, TWENTY-TWO AND TWENTY-THREE.

6 THIRTEEN THROUGH SEVENTEEN AND TWENTY-ONE THROUGH  
7 TWENTY-THREE, SAME SENTENCE ON EACH. THEY'RE CONCURRENT  
8 WITH EACH OTHER, BUT THEY ARE CONSECUTIVE AS A GROUP TO  
9 COUNT TWO.

10 NOW, THAT SHOULD BE TWENTY-FIVE; RIGHT? THAT'S THE  
11 WAY WE COUNTED?

12 **MS. LANGSTON:** UH-HUH (AFFIRMATIVE).

13 **THE COURT:** THAT'S THE SENTENCE I'M GOING TO IMPOSE,  
14 MR. LEWIS. ONE OTHER THING. ANY BOOK, MANUSCRIPT THAT  
15 MAY BE PRODUCED BY MR. LEWIS THAT WINDS UP WITH ANY  
16 COMMERCIAL VALUE, THE PROCEEDS OF WHICH I THINK HE  
17 SHOULDNN'T PROFIT.

18 I THINK THOSE OUGHT TO BE DEVOTED TO A PURPOSE OF --  
19 LET ME FIND THE EXACT WORDING AGAIN. FOR SUCH USE AS IT  
20 MAY BE A WARNING TO OTHERS NOT TO FALL VICTIM TO OR TO  
21 VICTIMS OF SIMILAR ACTS.

22 AM I MAKING SENSE THERE?

23 **MR. VOLKODAV:** YES.

24 **THE COURT:** DO YOU UNDERSTAND THAT, MS. LANGSTON?

25 **MS. LANGSTON:** YES.

1           **THE COURT:** DO YOU UNDERSTAND THAT, MR. LEWIS?

2           **THE DEFENDANT:** DOES THAT MEAN IT CAN GO TO MY FAM --  
3 MY CHILDREN, MY DAUGHTERS?

4           **THE COURT:** WELL, I THINK AS A MATTER OF LAW, THEY'RE  
5 NOT YOUR CHILDREN UNLESS YOU ADOPTED THEM. AND I'M NOT  
6 FAMILIAR WITH THE FACT THAT YOU ADOPTED THEM.

7           **THE DEFENDANT:** COULD THEY GO TO THE GIRLS?

8           (MR. NORMAN SPEAKS WITH CLIENT OFF RECORD)

9           **THE COURT:** ANY PROCEEDS FROM ANY BOOK THAT COULD BE  
10 PUBLISHED IS TO GO TO EDUCATE OTHERS ABOUT THE SUBJECT AND  
11 TO AID VICTIMS OF. I GUESS IT'S POSSIBLE THEY MIGHT BE  
12 VICTIMS OF AND RECEIVE SOME FUNDS FROM IT IF YOU, IN FACT,  
13 HAD A BOOK AND IT WAS PUBLISHED.

14           BUT YOU PERSONALLY ARE NOT TO PROFIT FROM IT.

15           **MR. VOLKODAV:** THERE'S ONLY TWO ADDITIONAL REQUESTS  
16 THE STATE WOULD HAVE. I THINK WE NEED TO INFORM THE  
17 DEFENDANT OF HIS RIGHT TO REVIEW, AS WELL AS I THINK IT'S  
18 REQUIRED THAT YOU GO OVER ANY SEXUAL OFFENDER STATUS AND  
19 WHAT'S REQUIRED.

20           **THE COURT:** MR. LEWIS, THAT SENTENCE BEING IN EXCESS  
21 OF TWELVE YEARS, I BELIEVE IT IS, YOU HAVE THE RIGHT TO  
22 HAVE THAT SENTENCE REVIEWED BY THE SUPERIOR COURT SENTENCE  
23 REVIEW PANEL. THAT'S A PANEL OF THREE SUPERIOR COURT  
24 JUDGES NOT FROM THIS CIRCUIT, BUT FROM VARIOUS OTHER  
25 CIRCUITS IN THE STATE WHO REVIEW CASES AND THE SENTENCES

1 IMPOSED.

2 THEY CAN LEAVE SENTENCES THE SAME. THEY CAN REDUCE  
3 SENTENCES. THEY CANNOT INCREASE THEM. DO YOU UNDERSTAND  
4 THAT?

5 **THE DEFENDANT:** (NODS HEAD AFFIRMATIVELY.)

6 **THE COURT:** YOU HAVE TO FILE THAT REQUEST FOR REVIEW  
7 BY THE SUPERIOR COURT SENTENCE REVIEW PANEL WITHIN THIRTY  
8 DAYS OF TODAY. DO YOU UNDERSTAND THAT?

9 **THE DEFENDANT:** (NODS HEAD AFFIRMATIVELY.)

10 **THE COURT:** MR. LEWIS, THAT UPON YOUR RELEASE ON ANY  
11 PROBATION THAT YOU WILL BE SUBJECT TO A CURFEW ESTABLISHED  
12 BY THE PROBATION STAFF. YOU ARE NOT TO BE ALONE WITH ANY  
13 CHILD OR CHILDREN UNDER THE AGE OF SEVENTEEN WITHOUT SOME  
14 ADULT SUPERVISION BEING PRESENT.

15 YOU'RE NOT TO HAVE ANY CONTACT WITH THE VICTIM IN  
16 THIS CASE OR THE FAMILY. YOU UNDERSTAND THAT?

17 **THE DEFENDANT:** (NODS HEAD AFFIRMATIVELY.)

18 **THE COURT:** I NEED YOU TO ANSWER OUT LOUD, PLEASE,  
19 SIR.

20 **THE DEFENDANT:** YES, SIR.

21 **THE COURT:** YOU ARE NOT TO WORK FOR OR VOLUNTEER FOR  
22 ANY BUSINESS OR ORGANIZATION OR ACTIVITY THAT PROVIDES  
23 CARE OR SERVICES TO CHILDREN UNDER THE AGE OF SEVENTEEN.

24 FOR EXAMPLE, BOY SCOUTS, GIRL SCOUTS, DAY-CARE  
25 CENTERS, BOYS' CLUBS, GIRLS' CLUBS, YMCA'S, YWCA'S. DO

1 YOU UNDERSTAND THAT?

2 **THE DEFENDANT:** YES, SIR.

3 **THE COURT:** AND THOSE ARE NOT AN EXHAUSTIVE LIST.  
4 IT'S NOT AN EXHAUSTIVE LIST. I ONLY GAVE YOU THOSE AS  
5 EXAMPLES. ANY SIMILAR TYPE ORGANIZATION OR ACTIVITY,  
6 YOU'RE NOT TO VOLUNTEER OR WORK FOR ANY BUSINESS OR  
7 ACTIVITY. DO YOU UNDERSTAND THAT?

8 **THE DEFENDANT:** YES, SIR.

9 **THE COURT:** YOU'RE NOT TO RESIDE IN ANY HOME WHERE  
10 PERSONS UNDER THE AGE OF SEVENTEEN RESIDE, NOR WITH ANY  
11 FAMILY UNIT THAT HAS CHILDREN UNDER THE AGE OF SEVENTEEN  
12 IN THE HOUSEHOLD. DO YOU UNDERSTAND THAT?

13 **THE DEFENDANT:** YES, SIR.

14 **THE COURT:** YOU ARE TO ATTEND A SEX OFFENDER  
15 EVALUATION AT THE DIRECTION OF THE PROBATION OFFICER. OF  
16 COURSE, YOU'LL HAVE TO PAY FOR IT. YOU'LL HAVE TO  
17 PARTICIPATE IN THE CONSULTING AND THE TREATMENT THAT MAY  
18 BE RECOMMENDED. DO YOU UNDERSTAND THAT?

19 **THE DEFENDANT:** YES, SIR.

20 **THE COURT:** YOU WILL STAY IN THAT TREATMENT FOR A  
21 MAXIMUM OF ONE YEAR, OR UNTIL YOU ARE OFFICIALLY  
22 DISCHARGED FROM THE PROGRAM.

23 YOU WILL BE SUPERVISED THE ENTIRE LENGTH OF YOUR  
24 SENTENCE BY THE PROBATION DEPARTMENT. YOU UNDERSTAND  
25 THAT?

1           **THE DEFENDANT:** YES, SIR.

2           **THE COURT:** YOU MAY HAVE TO SUBMIT TO DNA TESTING.  
3 THEY WOULD TAKE A SAMPLE OF YOUR DNA. DO YOU UNDERSTAND  
4 THAT?

5           **THE DEFENDANT:** YES, SIR.

6           **THE COURT:** YOU UNDERSTAND YOU'LL BE REQUIRED TO  
7 REGISTER AND MAINTAIN REGISTRATION AS A SEX OFFENDER. DO  
8 YOU KNOW WHAT REGISTRATION I'M TALKING ABOUT?

9           **THE DEFENDANT:** YES, SIR.

10          **THE COURT:** AND YOU'RE NOT TO RESIDE WITHIN ONE  
11 THOUSAND FEET, AFTER YOU'RE RELEASED ON PROBATION, YOU'RE  
12 NOT TO RESIDE WITHIN ONE THOUSAND FEET OF ANY CHILD-CARE  
13 FACILITY, SCHOOL, OR OTHER LOCATION WHERE MINORS  
14 CONGREGATE. DO YOU UNDERSTAND THAT?

15          **THE DEFENDANT:** YES, SIR.

16          **THE COURT:** ANYTHING FURTHER, MR. VOLKODAV?

17          **MR. VOLKODAV:** NO, SIR.

18          **THE COURT:** MR. NORMAN?

19          **MR. NORMAN:** NO, YOUR HONOR.

20          **THE COURT:** THEN WE'LL IMPOSE THAT SENTENCE.

21                           **(PROCEEDINGS CONCLUDED)**

CERTIFICATE

STATE OF GEORGIA )

COUNTY OF PAULDING )

I DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT,  
PAGES ONE THROUGH 10,  
IS A TRUE AND CORRECT RECORD OF SAID PROCEEDINGS; THAT I AM  
NEITHER A RELATIVE NOR EMPLOYEE NOR ATTORNEY NOR COUNSEL OF  
ANY OF THE PARTIES,  
NOR A RELATIVE NOR EMPLOYEE OF SUCH ATTORNEY OR COUNSEL, NOR  
FINANCIALLY INTERESTED IN THE ACTION.  
REPRODUCTION OF ALL OR ANY PORTION OF THIS TRANSCRIPT WITHOUT  
THE EXPRESS CONSENT OF THIS COURT REPORTER  
VOIDS ANY CERTIFICATION TO THE ACCURATENESS THEREOF TO ANY  
SUCH REPRODUCTION.  
WITNESS MY HAND AND SEAL AT HIRAM, PAULDING COUNTY, GEORGIA,  
THIS DAY, April 18, 2006.

  
NANCY C. MINTZ  
OFFICIAL COURT REPORTER  
PAULDING JUDICIAL CIRCUIT  
CERTIFICATE A-1158

**IN THE SUPERIOR COURT OF PAULDING COUNTY  
STATE OF GEORGIA**

STATE OF GEORGIA  
VERSUS  
KENNETH GREGORY LEWIS  
DEFENDANT.

CASE NUMBER  
05CR-444

FILED IN OFFICE  
PAULDING COUNTY GEORGIA  
06 JUL 21 AM 10:53  
TERRY J. ...  
CLERK OF SUPERIOR COURT  
PAULDING COUNTY GEORGIA

**SENTENCE MODIFICATION**

THE TRANSCRIPT OF THE PROCEEDINGS BEFORE HONORABLE  
**TONNY S. BEAVERS** ON THE 25<sup>TH</sup> DAY OF APRIL, 2006, IN THE  
SUPERIOR COURT OF PAULDING COUNTY, DALLAS, PAULDING  
COUNTY, GEORGIA.

**APPEARANCE OF COUNSEL:**

**ON BEHALF OF THE STATE:**  
TONY VOLKODAV  
ASSISTANT DISTRICT ATTORNEY

**ON BEHALF OF THE DEFENDANT:**  
CHARLES NORMAN  
ATTORNEY AT LAW

NANCY C. MINTZ  
OFFICIAL COURT REPORTER  
PAULDING JUDICIAL CIRCUIT

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**PROCEEDINGS**

**THE COURT:** AT THIS TIME I WILL CALL THE CASE OF THE STATE OF GEORGIA VERSUS KENNETH GREGORY LEWIS. THIS IS CASE NUMBER 05CR-444.

THE STATE'S REPRESENTED BY MR. TONY VOLKODAV, ASSISTANT DISTRICT ATTORNEY AND THE DEFENDANT, MR. LEWIS, IS REPRESENTED BY MR. CHARLES NORMAN.

THERE'S A QUESTION COME UP ABOUT THE SENTENCE THAT WAS ENTERED IN THIS CASE. I GOT A COPY OF THE TRANSCRIPT, THOUGH I DON'T HAVE IT HERE IN THE COURTROOM. I GOT A COPY OF THE TRANSCRIPT OF THE PLEA AND SENTENCE.

NOW, MY OVERALL INTENT IN THAT CASE WAS TO SENTENCE MR. LEWIS TO FORTY YEARS, OF WHICH ON COUNT ONE I HAD ENTERED A SENTENCE OF THIRTY YEARS TO SERVE TEN. IN COUNT TWO I HAD ENTERED A SENTENCE OF TEN YEARS TO SERVE CONSECUTIVE TO COUNT ONE.

IN COUNT THREE, TEN YEARS TO SERVE CONCURRENT WITH COUNT ONE. AND IN COUNTS THIRTEEN, FOURTEEN, FIFTEEN, SIXTEEN AND SEVENTEEN, IT WAS TEN YEARS ON EACH OF THOSE COUNTS TO SERVE FIVE YEARS. THOSE WERE ALL CONCURRENT WITH EACH OTHER BUT CONSECUTIVE TO COUNT TWO.

AND IN COUNTS TWENTY-ONE, TWENTY-TWO AND TWENTY-THREE, THE SENTENCE WAS TEN YEARS. AND THAT TEN YEARS WAS -- ALL THOSE COUNTS WERE CONCURRENT WITH EACH OTHER, BUT THE TEN YEARS WAS TO SERVE FIVE YEARS CONCURRENT WITH

1           COUNT TWO.

2                   NOW, MY INTENT WAS THERE WOULD BE A FORTY YEAR  
3           SENTENCE. THAT IT WOULD BE TWENTY-FIVE YEARS TO SERVE AND  
4           FIFTEEN YEARS ON PROBATION. MR. NORMAN, YOU HAD A  
5           QUESTION ABOUT THAT SENTENCE AS TO WHETHER OR NOT IT WOULD  
6           BE TEN YEARS TO SERVE, AND THEN A PERIOD OF PROBATION - OR  
7           IT COULD BE READ AS TEN YEARS TO SERVE, THEN A PERIOD OF  
8           PROBATION, THEN ANOTHER TEN YEARS TO SERVE.

9                   MR. VOLKODAV, I BELIEVE YOU INDICATED YOU BELIEVED I  
10           WAS TRYING TO ENTER A FIFTY YEAR SENTENCE. AS I RECALL AT  
11           THE TIME OF THE ORIGINAL SENTENCE, THAT YOU HAD  
12           SPECIFICALLY ASKED FOR A PERIOD OF TIME THAT WOULD COVER A  
13           FIFTY YEAR PERIOD.

14                   **MR. VOLKODAV:** YES.

15                   **THE COURT:** AND AFTER READING THE TRANSCRIPT, I  
16           BELIEVE WHAT I WAS DOING WAS A FORTY YEAR SENTENCE, NOT A  
17           FIFTY YEAR.

18                   NOW, MS. LANGSTON, AFTER READING -- JOYCE LANGSTON  
19           WITH THE STATE PROBATION OFFICE INDICATES TO ME THAT SHE  
20           WAS GOING TO CHECK WITH THE STATE HOW THEY WOULD READ THAT  
21           SENTENCE.

22                   **MS. LANGSTON:** I HAVE NOT CHECKED WITH THE STATE. I  
23           APOLOGIZE TO THE COURT. IT JUST -- I JUST FORGOT ABOUT  
24           IT.

25                   **THE COURT:** WELL, THE INDICATION THAT YOU GAVE ME THE

1 OTHER DAY WAS THAT YOUR DEPARTMENT DIDN'T PARTICULARLY SEE  
2 A PROBLEM WITH THE WAY THIS SENTENCE WAS WORDED.

3 **MS. LANGSTON:** RIGHT.

4 **THE COURT:** DO EITHER OF YOU -- ANY OF YOU HAVE ANY  
5 SUGGESTIONS HOW I CAN MAKE IT CLEARER?

6 **MR. VOLKODAV:** I THINK -- DO YOU WANT TO GO FIRST?

7 **MR. NORMAN:** GO AHEAD.

8 **MR. VOLKODAV:** I THINK IN ORDER TO ACHIEVE YOUR  
9 INTENTION, A MORE CLEAR WAY TO SENTENCE THE DEFENDANT  
10 WOULD BE, FOR EXAMPLE -- AND THIS IS JUST AN EXAMPLE -- IN  
11 COUNT ONE, JUST SIMPLY TWENTY YEARS TO SERVE. AND MAKE  
12 COUNTS TWO AND THREE CONCURRENT WITH THAT.

13 THEN WHEN YOU GET TO THIRTEEN THROUGH SEVENTEEN, YOU  
14 COULD MAKE THAT CONSECUTIVE. THAT WOULD BRING IT TO  
15 THIRTY YEARS TO SERVE TWENTY-FIVE, AND THEN YOU WOULD NEED  
16 ONE MORE COUNT OF TEN YEARS PROBATION CONSECUTIVE TO THAT,  
17 AND THAT WOULD BE FORTY TO SERVE TWENTY-FIVE.

18 AND THERE WOULD BE NO LAPSES, AS FAR AS PROBATION, OR  
19 SERVICE TIME.

20 **THE COURT:** MR. NORMAN, DO YOU SEE A PROBLEM WITH  
21 THAT?

22 **MR. NORMAN:** THAT DOES NOT APPEAR TO BE A PROBLEM  
23 RIGHT NOW, JUST AS LONG AS WE DON'T GO OVER THE FORTY  
24 YEARS, AND AS LONG AS WE DON'T GO OVER THE AMOUNT THAT HE  
25 WAS TO SERVE ORIGINALLY, WHICH I BELIEVE WAS -- THAT WAS

1 CLEARER, I GUESS, AS TO COUNT ONE WE'LL MODIFY IT TO SAY  
2 THAT COUNT ONE, THE SENTENCE WAS TWENTY YEARS TO SERVE.  
3 COUNTS TWO AND THREE -- COUNTS TWO AND THREE, WE'LL --  
4 COUNT TWO, IN PARTICULAR, WE'LL MAKE THAT TEN YEARS TO  
5 SERVE -- COUNTS TWO AND THREE, I'LL -- UHM.

6 MS. LANGSTON, SCRATCH YOUR NOTE THERE.

7 **MS. LANGSTON:** OKAY.

8 **THE COURT:** AS TO COUNT ONE, WE'LL IT THIRTY YEARS TO  
9 SERVE TWENTY. AS TO COUNTS TWO AND THREE, WE'LL MAKE  
10 THOSE TEN YEARS TO SERVE CONCURRENT WITH EACH OTHER AND  
11 CONCURRENT WITH COUNT ONE.

12 AS TO COUNT THIRTEEN, FOURTEEN, FIFTEEN, SIXTEEN AND  
13 SEVENTEEN, WE'LL MAKE EACH OF THOSE TEN YEARS TO SERVE  
14 FIVE CONCURRENT WITH EACH OTHER, BUT CONSECUTIVE TO COUNT  
15 ONE.

16 AS TO COUNTS TWENTY-ONE, TWENTY-TWO AND TWENTY-THREE,  
17 WE'LL MAKE EACH OF THOSE TEN YEARS TO SERVE FIVE YEARS,  
18 CONCURRENT WITH EACH OTHER AND CONCURRENT TO COUNTS  
19 THIRTEEN, FOURTEEN, FIFTEEN, SIXTEEN AND SEVENTEEN.

20 NOW, DOES THAT GIVE ME FORTY?

21 **MR. VOLKODAV:** IT DOES GIVE YOU FORTY TO SERVE  
22 TWENTY-FIVE. BUT THE ONLY EXCEPTION I WOULD HAVE IS AGAIN  
23 WE'RE AT THE SAME ISSUE. IF YOU GIVE COUNT ONE THIRTY TO  
24 SERVE TWENTY, AND THEN COUNTS THIRTEEN THROUGH SEVENTEEN  
25 AS CONSECUTIVE TO THAT, I THINK THE ARGUMENT BY DEFENSE

1 COUNSEL IS THAT YOU'RE GOING TO HAVE A PERIOD OF PROBATION  
2 BEFORE THE NEXT FIVE YEARS KICKS IN.

3 I WOULD AGREE WITH THAT, WITH HIS ARGUMENT.

4 **MR. NORMAN:** WELL, I THINK HE'S RIGHT, YOU KNOW,  
5 ABOUT THE TEN WITH FIVE.

6 **THE COURT:** WELL, THEN JUST MAKE COUNT ONE TWENTY-  
7 FIVE YEARS TO SERVE.

8 **MR. VOLKODAV:** AND I THINK THE PROBATION WITH THAT  
9 SENTENCE WOULD BE IT'S -- YOU'RE MAKING A HARsher SENTENCE  
10 BECAUSE THE TWENTY-FIVE YEARS TO SERVE ON AN AGGRAVATED,  
11 HE'D HAVE TO SERVE EVERY DAY.

12 **MR. NORMAN:** EVERY DAY.

13 **THE COURT:** WELL, I TELL YOU WHAT, THIS ALL MAY BE  
14 FOR NAUGHT, ANY WAY I GO WITH IT. IT'S MAKING IT WORSE,  
15 ISN'T IT --THE PROBLEM.

16 **MR. NORMAN:** NOT REALLY. THE RUB I THINK IS WITH THE  
17 -- YOU WANT THE TWENTY-FIVE YEARS, OKAY. YOU CAN DO TEN  
18 ON COUNT ONE, TEN ON COUNT TWO, RUN CONSECUTIVE. OKAY.  
19 THAT'S YOUR TWENTY. OKAY. AND THEN DO THE TEN WITH FIVE  
20 TO SERVE CONSECUTIVE TO.

21 **THE COURT:** YOU'RE SAYING A STRAIGHT TEN YEARS ON  
22 COUNT ONE?

23 **MR. NORMAN:** YES. THAT'S WHAT YOU'RE SHOOTING FOR  
24 BECAUSE YOU'RE GOING TO GIVE HIM TEN MORE YEARS ON COUNT  
25 TWO, YOU KNOW, TO RUN CONSECUTIVE TO THAT FOR THE TWENTY

1 YEAR SENTENCE.

2 **THE COURT:** AND WHAT ARE YOU SAYING THEN, COUNTS  
3 THREE THROUGH THE END, FIVE YEARS? NO, THAT'S NOT GOING  
4 TO DO IT EITHER.

5 **MR. NORMAN:** WELL, I TELL YOU WHAT THE BEST WAY TO DO  
6 IT IS PUT -- JUST GIVE HIM, THIRTEEN THROUGH SEVENTEEN,  
7 FIVE YEARS TO SERVE, PERIOD.

8 COUNT ONE, TEN YEARS TO SERVE, CONSECUTIVE TO THE  
9 FIVE YEARS AND THE OTHER CONSECUTIVE TO THAT AND THEN MAKE  
10 UP FOR THE REST OF IT WITH TWENTY-ONE THROUGH TWENTY-  
11 THREE, AS FAR AS PROBATION IS CONCERNED.

12 **MR. VOLKODAV:** YOU KNOW WHAT THE PROBLEM WITH THAT IS  
13 GOING TO BE, CHARLIE, IS TWENTY-ONE THROUGH TWENTY-THREE  
14 YOU WOULD NEED FIFTEEN YEARS PROBATION. AND IT'S ONLY A  
15 TEN YEAR SENTENCE MAX.

16 **THE COURT:** I THINK I'M JUST GOING TO LEAVE IT THE  
17 WAY IT IS. THE PROBATION DEPARTMENT TELLS ME THAT THEY  
18 WRITE THE SENTENCES UP LIKE THAT ALL THE TIME AND THEY  
19 NEVER HAVE ANY PROBLEMS WITH IT.

20 **MR. NORMAN:** ALL RIGHT.

21 **THE COURT:** IF THE STATE HAS A PROBLEM WITH IT, I'M  
22 SURE THEY'LL BE CONTACTING.

23 **MR. VOLKODAV:** THE STATE DOESN'T OBJECT. THANK YOU,  
24 YOUR HONOR.

25 **THE COURT:** I MEANT THE STATE PROBATION DEPARTMENT OR

1

2

STATE PRISON SYSTEM, WHICHEVER IT MAY BE.

(PROCEEDINGS CONCLUDED)



THE SUPERIOR COURT OF

COUNTY, GEORGIA

FINAL DISPOSITION

Kinding

CRIMINAL ACTION NO. 05CR444-00

OFFENSE(S) CTS. 1, 2, 3, 6) Aggravated Child Molestation  
CT. 4) Rape CT. 5) Aggravated Sodomy  
CTS. 7, 8, 9, 10, 11) Aggravated Sexual Battery CT. 12) Sexual B  
CTS. 13, 14, 15, 16, 17) Child Molestation CTS. 18, 19) Sodomy  
CT. 20) Cruelty Children 2<sup>nd</sup> Degree CTS. 21, 22, 23) Sexual Exploitation of Childr

THE STATE

VS.

Kenneth Gregory Lewis

PLEA

VERDICT

OTHER DISPOSITION

NEGOTIATED

JURY

GUILTY ON

NOLLE PROSEQUI ORDER ON

GUILTY ON COUNT(S) 1, 2, 3, 13, 14, 15 NON-JURY

COUNT(S) \_\_\_\_\_

COUNT(S) 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 19,

NOLO CONTENDERE ON 16, 17, 21, 22, 23

NOT GUILTY ON

COUNT(S) \_\_\_\_\_

SEE ATTACHED SPECIAL CONDITIONS

TO LESSER INCLUDED

GUILTY OF INCLUDED

OFFENSE(S) OF \_\_\_\_\_

OFFENSE(S) \_\_\_\_\_

ON COUNT(S) \_\_\_\_\_

not same

DEFENDANT WAS ADVISED OF HIS/HER RIGHT TO HAVE THIS SENTENCE REVIEWED BY THE SUPERIOR COURTS SENTENCE REVIEW PANEL

FELONY SENTENCE

MISDEMEANOR SENTENCE

WHEREAS, the above-named defendant has been found guilty of the above-stated offense. WHEREUPON, it is ordered and adjudged by the Court that: The said defendant is hereby sentenced to confinement for a period of 30 years, Serve 10 years

CT. 2) 10 years TO Serve Consecutive to CT. 1 - CT. 2) 10 years TO Serve Concurrent with CT. 1  
CTS. 13, 14, 15, 16, 17) 10 years, Serve 5 years consecutive to CT. 2 And Concurrent with each other  
CTS. 21, 22, 23) 10 years, serve 5 years concurrent with CT. 2 and concurrent with each other

in the State Penal System or such other institution as the Commissioner of the State Department of Corrections or the Court may direct, to be computed as provided by law. HOWEVER, it is further ordered by the Court.

Defendant shall receive credit for time served \_\_\_\_\_

1) THAT the above sentence may be served on probation

2) THAT upon a term of 25 years of the above sentence, the number of 15 years may be served on probation. PROVIDED that the defendant complies with the general and other conditions imposed by the Court as part of this sentence.

If any portion of the above sentence is served on probation, said probated sentence shall be subject to the general conditions set forth on the reverse side hereof as well as the special conditions hereafter indicated:

First Offender Treatment

\_\_\_\_\_ hours Community Service

A/D Evaluation - Probationer shall comply with All treatment recommendations and pay cost of treatment.

Intensive Probation Supervision

Sex Offender Conditions

Other Defendant shall NOT Receive Any Proceeds From Any Book Sales, Profits From Any Book Sales shall GO TO Organizations That Provide Education And Treatment For Victims OF Sexual Abuse - Defendant shall H

O.C.G.A. 16-13-2(a)

Detention Center Confinement

\_\_\_\_\_ shall be suspended upon acceptance into said Center or Camp

Defendant shall pay the following as a special condition of probation:

TOTAL FINE \_\_\_\_\_ PLUS \$50.00 OR 10%, WHICHEVER IS LESS PURSUANT TO O.C.G.A. 15-21-70  
Ct. 1 \_\_\_\_\_ Ct. 4 \_\_\_\_\_ VAP \_\_\_\_\_ EVALUATION with Victim Andrea Da  
Ct. 2 \_\_\_\_\_ Ct. 5 \_\_\_\_\_ COUNTY SURCHARGE \_\_\_\_\_ DUI SURCHARGE OR his EX-wife De  
Ct. 3 \_\_\_\_\_ Ct. 6 \_\_\_\_\_ COMMUNITY SERVICE FEE \_\_\_\_\_ 50% DRUG FEE OR Any Family Mem  
STATE PROBATION FEE \_\_\_\_\_ SPINAL INJURY FEE 10% \_\_\_\_\_ CRIME LAB SURCHARGE \_\_\_\_\_  
COUNTY PROBATION FEE \_\_\_\_\_ GCVEF \_\_\_\_\_ ATTORNEY FEE \_\_\_\_\_  
IDF \_\_\_\_\_  
RESTITUTION \_\_\_\_\_  DEFENDANT SHALL BE GIVEN EQUAL CREDIT FOR ALL RESTITUTION PAYMENTS MADE BY CO-DEFENDANTS.

THE ABOVE AMOUNT(S) TO BE PAID AS FOLLOWS: \_\_\_\_\_

IT IS THE FURTHER ORDER of the Court and the defendant is hereby advised that the Court may, at any time, revoke any conditions of this probation and/or discharge the defendant from probation. The probationer shall be subject to arrest for violation of any condition of probation herein granted. If such probation is revoked, the Court may order the execution of the sentence which was originally imposed or any portion thereof in the manner provided by the law after deducting therefrom the amount of time the defendant has served on probation.

So ordered this 21<sup>st</sup> day of March 2006

District Attorney Tony Volkodar

Judge, Jonny S. Beavers Superior Court

Defense Attorney Charles Norman

CERTIFICATE OF SERVICE

Certificate of Service - This is to certify and acknowledge that a true and correct copy of this Final Disposition has been delivered in person and the defendant has been fully instructed regarding the conditions set forth.

This 23<sup>rd</sup> day of March, 2006

Ray Jones  
Probation Officer

Kenneth G. Lewis  
Defendant 6-05-2006

Deputy Clerk

day of

Filed in Open Court, this

January

2006

OFFICE

W. Wayne

# STATE BOARD OF PARDONS AND PAROLES



2 Martin Luther King, Jr., Drive, S.E.  
Balcony Level, East Tower  
Atlanta, Georgia 30334-4909  
(404) 656-5651  
www.pap.state.ga.us

Garland R. Hunt, Esq.  
Chairman

Baldwin SP

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Vice-Chairman  
Garfield Hammonds, Jr.  
Member  
Dr. Eugene P. Walker  
Member  
Milton E. "Buddy" Nix, Jr.  
Member

July 20, 2006

Kenneth Gregory Lewis EF-600560  
GD&CP  
Jackson, GA 30233

Dear Mr. Lewis:

The records of the Georgia State Board of Pardons and Paroles indicate you were convicted in Paulding County Superior Court under case # 05CR444OD, for the offense of Aggravated Child Molestation; Aggravated Child Molestation ( counts 2 and 3) and received a sentence of 30 years serve 10 years Balance probatiion; 10 years consecutive and 10 years concurrent.

Pursuant to O.C.G.A. 17-10-6.1 (Senate Bill 441) you are not eligible for parole and may expect to serve your entire sentence without the benefit of parole.

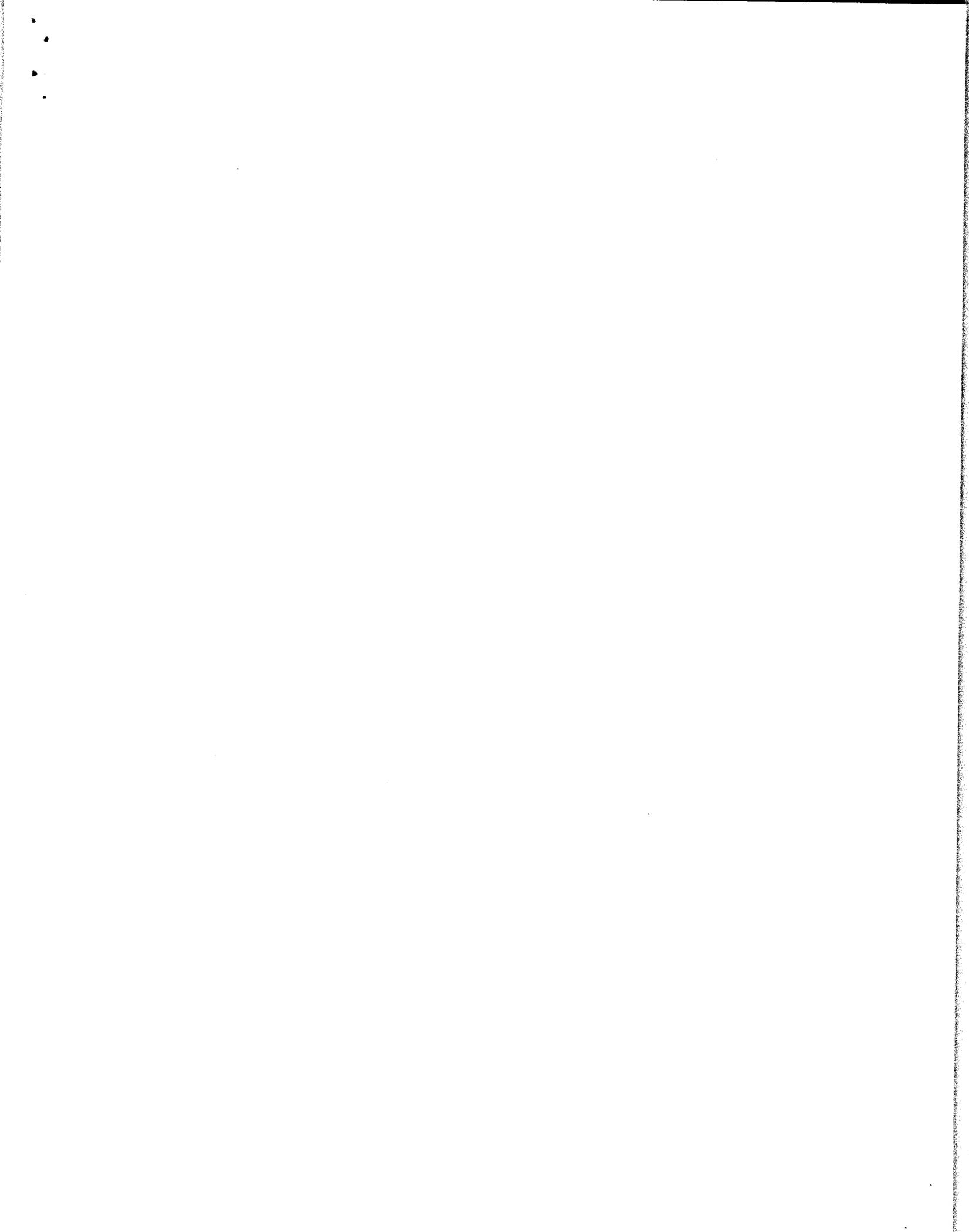
Sincerely,

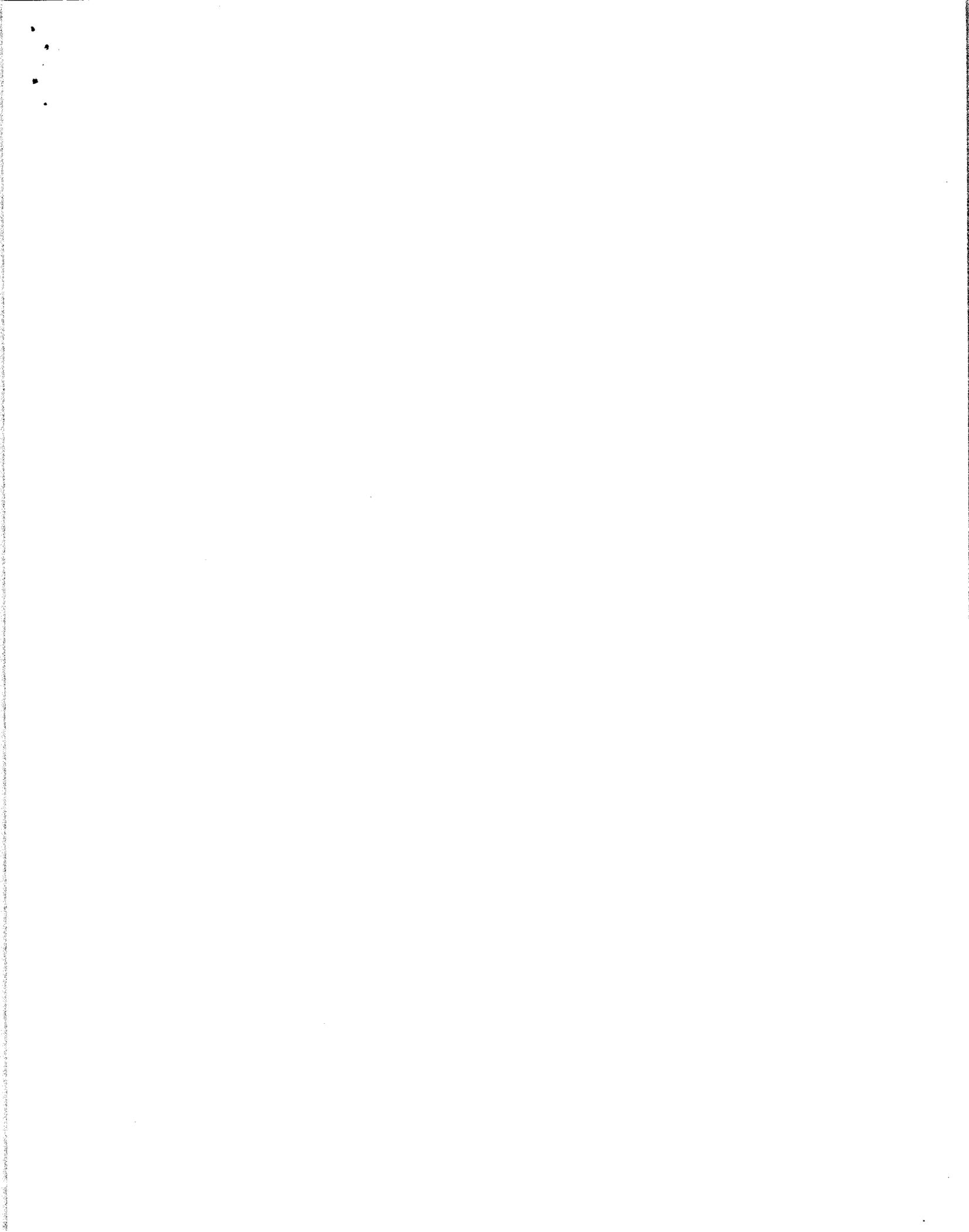
Thurman L. Henderson, Assistant Director  
Clemency/Parole Selection

TH/dp

cc: Warden  
Inmate Administration

GDC is applying the greater sentence (not the lesser) in the Final Disposition.





RECEIPT OF INMATE APPEAL

Pursuant to State Law, an inmates direct appeal is deemed filed upon delivery to prison authorities for deposit into the U.S. Mail or upon the postmark date of registered mail. Sapp. v. Gemline, 267 Ga. 438, 479 S.E. 2d 712 (1997).

The forgoing direct appeal has been filed in case 05-CR-444 using certified mail and delivery confirmation, and has been given to the Long State Prison mail room for proper forwarding on this 18<sup>th</sup> day of Sept., 2015, and the envelope contains complete address and adequate postage.

  
Kenneth Gregory Lewis #275494

pro se Defendant

Confirmed this 18<sup>th</sup> day of Sept, 2015, who also notarized the inmates, pro se appeal, directly.



NOTARY IN AND FOR THE STATE OF GEORGIA

**My Commission Expires July 4, 2019**

IN THE GEORGIA COURT OF APPEALS

AFFIDAVIT AND MOTION TO PROCEED IN FORMA PAUPERIS

RECEIVED IN APPELLATE  
2015 SEP 21 PM 12:47  
COURT OF APPEALS OF GA

I, Kenneth G. Lewis, the undersigned and pro se petitioner,

having been duly sworn, hereby state as follows:

That I am the plaintiff in the above and foregoing case and thereby responsible for payment of fees and court costs of this habeas corpus proceeding.

I am presently 55 years of age and have been unable to engage in substantial gainful employment since 2005.

My total earned monthly income is as follows: Ø.

I do not own any assets, bank accounts, stocks, bonds or other valuable property.

If I am required to pay the costs of this case I will not be able to prosecute my case due to lack of funds from poverty and incarceration.

I believe and state that I have a meritorious claim and desire to proceed in forma pauperis, and I swear under penalty of perjury that the foregoing facts are true and correct.

Kenneth G. Lewis  
Kenneth Gregory Lewis, Movant

SWORN TO AND SUBSCRIBED BEFORE ME,

this 18<sup>th</sup> day of September, 20 15.

Victoria A. Carter  
NOTARY PUBLIC

My Commission Expires: My Commission Expires July 4, 2019

IN THE Georgia COURT OF APPEALS  
STATE OF GEORGIA

STATE OF GEORGIA

Kenneth Gregory Lewis vs.  
#275494 pro se

CR-05-444  
ON APPEAL



I, Kenneth G. Lewis, depose and say that I am the plaintiff in the above entitled case; that in support of my request to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions and instructions below are true.

1. Are you presently employed?  Yes  No

If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer : \_\_\_\_\_

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received : 2005 \$45,000

2. Have you received within the past twelve months any money from any of the following sources?

Business, profession or form of self-employment?  Yes  No

Pensions, annuities or life insurance payments?  Yes  No

Rent payments, interest or dividends?  Yes  No

Gifts or inheritances?  Yes  No

Any other sources?  Yes  No

If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months : \_\_\_\_\_

my family sends some money & use to buy food at the inmate store

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts)  Yes  No

If the answer is "Yes", state the total value of the items owned : \_\_\_\_\_

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?  Yes  No

If the answer is "Yes", describe the property and state its approximate value : \_\_\_\_\_

\_\_\_\_\_ no property \_\_\_\_\_

5. List the persons who are dependent upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support : \_\_\_\_\_

\_\_\_\_\_ no dependents \_\_\_\_\_

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

- a. A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question.
- b. A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. O.C.G.A. §16-10-70.

x Keneth G Lewis  
Signature of Petitioner

9-18-2015  
Date

VERIFICATION

I am the plaintiff in this action and know the content of the above Request to Proceed in Forma Pauperis. I verify that the answers I have given are true of my own knowledge, except as to those matters that are stated in it on my information and belief, and as to those matters I believe them to be true. I have read the perjury statute set out above and am aware of the penalties for giving any false information on this form.

x Keneth G Lewis  
Signature of Affiant Petitioner

9-18-2015  
Date

Sworn to and subscribed before me this

18 day of Sept 2015  
Victoria D. Carter

My Commission Expires July 4, 2019

Notary Public or Other Person Authorized to Administer Oaths