

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

July 14, 2015

To: Mr. Rodolfo Martinez, GDC1000602079 9N5/27T, Wheeler Correctional Facility,  
Post Office Box 466, Alamo, Georgia 30411

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 current case pending in the Court of Appeals of Georgia under your name. I am returning your documents to you.**
- 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 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.

To: Mr. Homer Bryson, Commissioner  
Georgia Department of Corrections

Alamo, April 9, 2015

cc: - Ms. Melody Turner, Operations Dept.  
CCA - Corporate Office;  
- Mr. Vance Laughlin, Interim Warden  
CCA - Wheeler Correctional Facility

RECEIVED IN OFFICE  
2015 JUL 19 PM 3:55  
CLERK/COURT REPORTER  
COURT OF APPEALS OF GEORGIA

Matter: Bounds Rights of Access to the Courts

Sir,

I come hereby to bring to your attention that Wheeler Correctional Facility's Law Library does not have: (1) any form book - such as Daniel's Georgia or West's Federal; or (2) there's also not any printer available for case-laws, as for us Inmates to support our researchers and legal paperworks.

It's important to remark, that: (1) We as Inmates are already impaired to prepare our defenses for the criminal proceedings we are facing; (2) Other penal institutions, in the State of Georgia, do provide Inmates with print-outs of case-laws via their law libraries; and (3) even the adversarial system has already acknowledged Inmates Rights of Access to the Courts [FN1]

I, personally, am in need of certain print-outs of case-laws, See (attached 'Prisoner Information Request') and, Wherefore, very respectfully request from you to avail any possible assistance in these

[FN1]: See e.g., Bounds v. Smith, 430 U.S. 817 (1977) ('access to the Courts requires that prison authorities assist Inmates in the preparation and filing of meaningful legal papers with adequate law libraries or adequate assistance from persons trained in the law'); See also Daker v. Humphrey, 294 GA 504, 755 S.E.2d 201 (GA 2014) ('any restrictions on Bounds Rights of Access to the Courts may be a ground for the filing of Civil Action'). turn

THE REST OF THE COUNTS OF THE INDICTMENT WERE RE-ARRANGED AND RE-WRITTEN, SO AS TO TRACT THE PATTERNS OF O.C.G. §§ 16-9-1 AND 16-9-121. ON MARCH 11, 2011, THE TRIAL JURY REACHED A VERDICT OF "GUILTY" ON ALL CHARGES. ON JUNE 29, 2011, TRIAL JUDGE HON. MARK A. SCOTT SENTENCED THE DEFENDANT TO SERVE TEN (10) YEARS IN PRISON FOR EACH COUNT - ALL SENTENCES RUN CONCURRENT. ON JULY 25, 2011, THE DEFENDANT FILE A "MOTION FOR NEW TRIAL," WHICH WAS DENIED ON JANUARY 28, 2013. THE DEFENDANT, CONSEQUENTLY, APPEALED SAID DECISION TO THIS HONORABLE COURT. CASE No. A13A1445 WAS DECIDED ON NOVEMBER 21, 2013 - BOTH CONVICTIONS FOR "FINANCIAL IDENTITY FRAUD" (O.C.G.A. § 16-9-121) WERE REVERSED, WHILE THE CONVICTIONS FOR "FORGERY IN THE FIRST DEGREE" (O.C.G.A. § 16-9-1) WERE AFFIRMED. THE APPELLANT, THEN, PROCEEDED ON TO FILE A "PETITION FOR A WRIT OF CERTIORARI" BEFORE THE HONORABLE SUPREME COURT OF GEORGIA; AND ON JUNE 2, 2014, CASE No. S14C0575, THE PETITION WAS DENIED - NO OPINION WAS RELEASED. THE PETITIONER / APPELLANT PROCEEDED ON, THEN, TO FILE A "PETITION FOR A WRIT OF CERTIORARI" BEFORE THE HONORABLE SUPREME COURT OF THE UNITED STATES OF AMERICA. AS CASE No. 14-6570 WAS DOCKETED ON OCTOBER 6, 2014, THE PETITION WAS DENIED ON DECEMBER 8, 2014. ON DECEMBER 15, 2014, A "PETITION FOR REHEARING" WAS FILED; HOWEVER, IT WAS DENIED ON FEBRUARY 23, 2015.

AS A RESULT, THE DIRECT APPEAL BECAME FINAL, AND THE PETITIONER / APPELLANT HAS LOST HIS RIGHT FOR AN APPOINTMENT OF COUNSEL BY THE COURT.

ON APRIL 24, 2014, THE PETITIONER FILED FOR A "PETITION FOR A WRIT OF HABEAS CORPUS" BEFORE THE HONORABLE SUPERIOR COURT OF WHEELER COUNTY - COUNTY IN WHICH HE IS CURRENTLY INCARCERATED. A PARTIAL EVIDENTIARY HEARING WAS HELD ON JUNE 3<sup>RD</sup> 2015 FOR CASE No. 14-CV-066; YET, IT WAS CONTI-

# CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE THIS DAY SERVED A TRUE AND CORRECT COPY OF THE WITHIN AND FOREGOING NOTICE UPON THE PARTIES LISTED BELOW BY DEPOSITING A COPY OF THE SAME IN THE U.S. POSTAL SERVICE IN A PROPERLY ADDRESSED ENVELOPE WITH ADEQUATE, SUFFICIENT POSTAGE AFFIXED THEREON, AS TO ENSURE FIRST CLASS DELIVERY UNTO BELOW ADDRESSES:

HON. CAROL W. BRAGG  
OFFICE OF THE CLERK FOR THE  
SUPERIOR COURT OF WHEELER COUNTY  
P.O. BOX 38  
ALAMO, GA 30411

- AND -

OFFICE OF THE CLERK FOR THE  
COURT OF APPEALS OF GEORGIA  
47 TRINITY AVENUE, STE. 501  
ATLANTA, GEORGIA 30334

VERY RESPECTFULLY SUBMITTED,

DATE: JULY 6, 2015



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RODOLFO L. MARTINEZ  
(A.K.A. ZENITH VIVAS)  
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9N5/27-T  
1100 NORTH BROAD STREET  
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ALAMO, GA 30411-0466