

**COURT OF APPEALS OF GEORGIA
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

July 22, 2015

To: Mr. Rodolfo Martinez, GDC1000602079, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Docket Number: Style: Rodolfo Martinez v. The State

Your document(s) is (are) being returned for the following reason(s).

1. Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, 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. Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3. **A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)**
4. A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5. Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6. There were an insufficient number of copies of your document. Rule 6
7. **You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service. Rule 6**
8. Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9. Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10. Your request for court action must be submitted in motion form. Rule 41 (a)
11. No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12. The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13. Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14. Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15. Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).
16. **Other:**

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

IN THE COURT OF APPEALS OF THE STATE OF GEORGIA

MARTINEZ, RODOLFO
GDC- 1000602079
APPELLANT,
- V. -
STATE OF GEORGIA
APPELLEE

§
§
§
§
§
§

CASE No. : _____
[APPLICATION FOR A
DISCRETIONARY APPEAL]

APPLICATION FOR A DISCRETIONARY APPEAL

JURISDICTION

O.C.G.A. §§ 5-6-34(a) and 5-6-35.

IN THE COURT BELOW
[HISTORICAL BACKGROUND]

RECEIVED IN OFFICE
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CLERK OF COURT
COURT OF APPEALS OF GA

ON JUNE 9, 2015, MARTINEZ PROPOSED A CIVIL ACTION BY MEANS OF FILING A "PETITION FOR A WRIT OF MANDAMUS" BEFORE THE HONORABLE SUPERIOR COURT OF WHEELER COUNTY, GEORGIA, TRYING TO GET SOME ASSISTANCE TO GAIN "ACCESS TO THE COURTS"; HOWEVER, ON JUNE 26, 2015, HON. JUDGE SARAH F. WALL SIGNED ORDER DISAPPROVING FOR FILING SAID PETITION DUE TO "LACK OF VENUE."

IT IS IMPORTANT TO REMARK, THAT:

- (1) IN HER ORDER, JUDGE WALL DID NOT STATE WHICH IS THE PROPER VENUE FOR THIS PROPOSED CIVIL ACTION;
- (2) THE PETITION WAS NOT TRANSFERRED TO ITS PROPER VENUE; AND
- (3) THE ORIGINAL PETITION WAS NOT EVEN RETURNED TO THE PETITIONER WITH INSTRUCTIONS.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY, THAT I HAVE THIS DAY SERVED A TRUE AND CORRECT COPY OF THE WITHIN AND FOREGOING "APPLICATION FOR A DISCRETIONARY APPEAL" UPON THE PARTY 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 ADDRESS:

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

VERY RESPECTFULLY SUBMITTED

DATE: 7/8/15

 VIVAS

151

MARTINEZ, RODOLFO
(A.K.A. ZENITH VIVAS)
GDC ID#: 1000602079
WHEELER CORRECTIONAL
FACILITY - 9NS/27-T
1100 NORTH BROAD STREET
P.O. BOX 466
ALAMO, GA 30411-0466

MARTINEZ, RODOLFO
GDC ID #: 1000602079
WHEELER CORRECTIONAL FACILITY
9NS/27-T
1100 NORTH BROAD STREET
P.O. BOX 466
ALAMO, GA 30411-0466

CONFIDENTIAL

...ENSIONS, ANNUITIES, OR LIFE INSURANCE PAYMENTS? Yes No
Rent payments, interest or dividends? Yes No



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COURT OF APPEALS OF GA

OFFICE OF THE CLERK FOR THE
COURT OF APPEALS OF GEORGIA
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ATLANTA, GA 30334



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OF APPEALS
OF GEORGIA

RECEIVED IN OFFICE
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COURT OF APPEALS OF GA

Civil Action No. _____

~~Arbitration~~ (2V)
APPLICATION FOR A DISCRETIONARY
APPEAL



...se and say that I am the plaintiff in the above entitled
...it being required to prepay fees, costs, or give
...I am unable to pay the costs of said proceeding or to
...redress.

...to questions and instructions below are true.

...own: - N/A -

...s: No

...ount of your salary or wages per month, and give the

- N/A -

...of last employment and the amount of the salary and

d: FEB 8, 2010

\$3,600. - monthly

...onths any money from any of the following sources?

...employment? Yes No

...ent payments, interest or dividends? Yes No

...ent payments, interest or dividends? Yes No

RODOLFO L. MARTINEZ VERIFICATION

I, (A. K. A. ZENITH VIVAS), do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauperis status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

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.

[Signature]
Signature of Affiant Petitioner

7/13/15
Date

Sworn to and subscribed before me this
13 day of July, 2015.
[Signature]
Notary Public or Other Person Authorized to Administer Oaths



Please note that under O.C.G.A. § 5-9-201, a party who files a request to proceed in forma pauperis, including all attachments, shall be deemed to have waived the right to appeal any dismissal without prejudice of the prisoner's motion.

THIS FORM IS TO BE COMPLETED ONLY BY AN AUTHORIZED INDIVIDUAL AT THE INSTITUTION WHERE THE INMATE PLAINTIFF IS PRESENTLY INCARCERATED, OR HIS/HER DESIGNEE.

CERTIFICATION

I hereby certify that the Plaintiff herein, Martinez, Rodolfo GDC 1000602079 has an average monthly balance for the last twelve (12) months of \$ 0 on account at the Wheeler Correctional facility institution where confined. (If not confined for a full twelve (12) months, specify the number of months confined. Then compute the average monthly balance on that number of months.)

I further certify that Plaintiff likewise has the following securities according to the records of said institution: None

Conley . 7-15-15
Authorized Officer of Institution Date

NOTE: Please attach a copy of the prisoner's inmate account of the last 12 months, or the period of incarceration (whichever is less).

IN THE SUPERIOR COURT OF WHEELER COUNTY
STATE OF GEORGIA

RE: Rodolfo Martinez, GDC #1000602079 v.)
Vance Laughlin, Warden, Wheeler) Proposed Civil Action:
Correctional Facility, & Brian Owens,) "Petition for Writ of Mandamus"
Commissioner, Georgia Department of)
Corrections.)

ORDER

The above-referenced person submitted a pro se document to the Clerk of Court's office for filing. Because the document has been submitted by a pro se person wishing to proceed *in forma pauperis*, the Court must approve the proposed complaint prior to filing under O.C.G.A. § 9-15-2. After reviewing the document, the Court

_____ cannot find that "the pleading shows on its face a complete absence of any justiciable issue of law or fact that it cannot be reasonably believed that the court could grant any relief." O.C.G.A. § 9-15-2(d). Therefore, the proposed complaint is hereby APPROVED FOR FILING.

SMX finds that the pleading displays "a complete absence of any justiciable issue of law or fact that it cannot be reasonably believed that the court could grant any relief." O.C.G.A. § 9-15-2(d). Therefore, the proposed complaint is hereby DISAPPROVED FOR FILING.

The proposed complaint is otherwise disapproved for filing at this time because:

- _____ the complaint is not verified
- _____ the complaint is not signed by Plaintiff
- _____ a valid request to proceed *in forma pauperis* is not included
- SMX _____ venue is improper in Wheeler County
- _____ the proposed civil action is not on the correct forms as required by O.C.G.A. § 9-10-14.

SO ORDERED, this 26th day of JUNE, 2015.

FILED IN OFFICE 9Am
DATE 6-29-15
Carol W. Bragg
CLERK OF SUPERIOR COURT
WHEELER COUNTY, GEORGIA

Sarah F. Wall
H. Frederick Mullis, Jr., Chief Judge
Sarah F. Wall, Judge
C. Michael Johnson, Judge
Wheeler County Superior Court