

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

July 14, 2015

To: Mr. Kenneth G. Melton, GDC522776, Johnson State Prison, Post Office Box 344,  
Wrightsville, Georgia 31096

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 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.

FILED  
DIRECT APPEAL

IN THE SUPREME COURT OF TURNER COUNTY FILED IN OFFICE  
STATE OF GEORGIA

KENNETH ELLEN MELTON DC# 522776  
PRO SE DEFENDANT

JUL 13 2015  
COURT CLERK  
CLERK COURT OF APPEALS OF GA

CRIMINAL CASE NO. 7044

STATE OF GEORGIA

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT KENNETH ELLEN MELTON, PRO SE, IN  
FLORHAM PROPERT, GIVES NOTICE OF HIS DIRECT APPEAL TO THE GEORGIA  
COURT OF APPEALS FROM THE TRIAL COURT'S DENIAL OF HIS MOTION  
FOR OUT-OF-TIME APPEAL THE JUDGMENT OF CONVICTION AND  
SENTENCES ENTERED ON MAY 26, 2015 BY COURT ORDER.

THE CLERK WILL PLEASE INCLUDE THE ENTIRE RECORD ON APPEAL  
INCLUDING, THE INDEX TO RECORD, ALL GUILTY PLEA HEARING TRANSCRIPTS,  
PETITION TO UNLIE PLEA OF GUILTY, MOTION FOR OUT-OF-TIME APPEAL,  
THE ORDER OF TRIAL COURT STAMP FILED, ANY PRE-TRIAL MOTIONS,  
EXHIBITS, ETC.

THE CLERK SHOULD NOT OMIT NOTHING FROM THE RECORD  
ON APPEAL.

THE COURT OF APPEALS OF GEORGIA HAS JURISDICTION OF  
THIS CRIMINAL CASE ON APPEAL FOR REASONS A DIRECT  
APPEAL PROVIDED TO O.C.G.A. § 5-6-34(a)

THIS 12<sup>TH</sup> DAY OF JUNE, 2015

RESPECTFULLY SUBMITTED,  
Kenneth Melton PRO SE  
DC# 522776  
TURNER STATE PRISON  
P.O. BOX 346  
WRIGHTSVILLE, GEORGIA 31096

RECEIVED IN OFFICE  
2015 JUL 13 PM 3:57  
CLERK COURT OF APPEALS OF GA

CERTIFICATE OF SERVICE

This is to certify that I have served the opposing party with a complete and accurate copy of the foregoing documents. Service was made by placing the same in an envelope, and with sufficient postage affixed, placed in the U.S. Mail, and on this day

mailed to the party(s) as follows: NOTICE OF APPEAL

STATE OF GEORGIA V KENNETH GLENN MELTON CASE N 7144

MR. JOHN HOLLAND, DISTRICT ATTORNEY

SUPERIOR COURT OF TERRELL COUNTY

P.O. BOX 824

ASHBURN, GEORGIA 31714

This the 10<sup>th</sup> day of JUNE, 2015

Kenneth Melton

PRO SE

KENNETH GLENN MELTON GDC# 522776

JOHNSON STATE PRISON

P.O. BOX 344

WRIGHTSVILLE, GEORGIA 31096

CLERK  
CO A  
W/ACCT  
REQ TO PAGO IFP  
BRIEF OF APPELLANT.

IN THE GEORGIA COURT OF APPEALS

STATE OF GEORGIA

KENNETH GLENN MELTON, PRO SE

APPELLANT

APPEAL CASE NO.

VS

STATE OF GEORGIA,  
APPELLEE

REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

COMES NOW KENNETH GLENN MELTON, PRO SE, GOC # 522776 THE APPELLANT IN THE ABOVE-STYLED APPEAL. THE APPELLANT IS INDIGENT AND BECAUSE OF HIS INDIGENCY HE CANNOT AFFORD TO PRE-PAY THE FILING FEES AND COSTS ON APPEAL, OR GIVE SECURITY THEREFOR AND I BELIEVE I AM ENTITLED TO REDRESS ON APPEAL

- 1. ARE YOU PRESENTLY EMPLOYED YES — NO
- a. IF THE ANSWER IS YES, STATE THE AMOUNT OF YOUR SALARY PER MONTH AND GIVE THE NAME AND ADDRESS OF YOUR EMPLOYER
- b. IF THE ANSWER IS NO, STATE THE DATE OF LAST EMPLOYMENT AND THE AMOUNT OF THE SALARY PER MONTH WHICH YOU RECEIVED

NOVEMBER, 1988 \$ 800.00 MONTHLY.

- 2. HAVE YOU RECEIVED WITHIN THE PAST TWELVE MONTHS ANY MONEY FROM ANY OF THE FOLLOWING SOURCES?
  - a. BUSINESS, PROFESSION, OR FORM OF SELF-EMPLOYMENT YES — NO
  - b. PENSIONS, ANNUITIES OR LIFE INSURANCE PAYMENTS YES — NO
  - c. RENT PAYMENTS, INTEREST, OR DIVIDENDS YES — NO
  - d. GIFTS OR INHERITANCES YES — NO
  - e. 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 DURING THE PAST TWELVE MONTHS.

- 3. DO YOU OWN ANY CASH OR DO YOU HAVE MONEY IN A CHECKING OR SAVINGS ACCOUNT YES  NO  \$ 00.00 PRISON ACCOUNT
- 4. DO YOU OWN ANY REAL ESTATE STOCKS, BONDS, NOTES, AUTOMOBILES & OTHER VALUABLE PROPERTY EXCLUDING HOUSEHOLD FURNISHINGS AND CLOTHING? YES — NO
- 5. LIST THE PERSONS WHO ARE DEPENDANT UPON YOU FOR SUPPORT NONE.

I DECLARE UNDER OATH AND PERJURY PENALTIES THAT THE FOREGOING IS

TRUE AND CORRECT. O.C.G.A. § 16-10-20 x Kenneth Glenn Melton

SIGNED THIS 10th DAY OF JUNE, 2015 GOC # 522776

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, KENNETH GLENN MELTON # 522776  
has an average monthly balance for the last twelve (12) months of \$ 17.17 (10.00 IN RESERVE) on account at  
the GA. DEPT. OF CORRECTIONS  
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: N/A

Mary F. Clements 6-10-15  
Authorized Officer of Institution Date  
Acc. Parapro  
Johnson State Prison

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

Account Statement

MELTON, KENNETH

Printed By: CLEMENTS, MARY

GDC ID: 522776

Spendable Amount	Reserved Amount	Receipts On Hold	Funds Balance	Obligations/Out Charges
\$0.00	\$10.00	\$0.00	\$10.00	\$1.00

**RECEIPTS**

Receipt Date	Transaction ID	Receipt Type	Receipt Details	Receipt Amount
03/05/2015	14054939	BANK OF AMERICA RECEIPT	BOA-51376667 - 3702638	\$39.25
12/18/2014	13762366	BANK OF AMERICA RECEIPT	BOA-37102713 - 3595926	\$39.25
11/28/2014	13683431	BANK OF AMERICA RECEIPT	BOA-18163933 - 3566096	\$49.25
11/24/2014	13669261	BANK OF AMERICA RECEIPT	BOA-05297594 - 3558245	\$39.25
08/05/2014	13267092	BANK OF AMERICA RECEIPT	BOA-57221696 - 3409012	\$59.25
07/01/2014	13132252	BANK OF AMERICA RECEIPT	BOA-05274868 - 3357733	\$39.25
05/16/2014	12967979	BANK OF AMERICA RECEIPT	BOA-29563638 - 3296630	\$39.25
12/06/2013	12373589	BANK OF AMERICA RECEIPT	BOA-34324251 - 3067742	\$39.25
08/29/2013	12015218	BANK OF AMERICA RECEIPT	BOA-37836321 - 2926149	\$99.25
08/27/2013	12008155	BANK OF AMERICA RECEIPT	BOA-33490463 - 2923330	\$29.25
03/19/2013	11407144	BANK OF AMERICA RECEIPT	BOA-14451943 - 2684300	\$39.25
12/19/2012	11069753	BANK OF AMERICA RECEIPT	BOA-79314552 - 2539170	\$39.25
11/16/2012	10947204	BANK OF AMERICA RECEIPT	BOA-20033276 - 2486734	\$49.25
07/03/2012	10441958	BANK OF AMERICA RECEIPT	BOA-74605933 - 2264623	\$39.25
05/01/2012	10206669	BANK OF AMERICA RECEIPT	BOA-85739163 - 2161597	\$49.25
03/13/2012	10015265	BANK OF AMERICA RECEIPT	BOA-74641876 - 2083278	\$39.25
02/01/2012	9837688	BANK OF AMERICA RECEIPT	BOA-21299764 - 2003381	\$29.25
12/21/2011	9695016	BANK OF AMERICA RECEIPT	BOA-90950677 - 1940578	\$99.25
11/22/2011	9587384	BANK OF AMERICA RECEIPT	BOA-41617331 - 1891292	\$29.25
08/09/2011	9193353	BANK OF AMERICA RECEIPT	BOA-67047467 - 1712944	\$29.25
05/12/2011	8879561	BANK OF AMERICA RECEIPT	BOA-78329325 - 1572180	\$99.25
04/08/2011	8755794	BANK OF AMERICA RECEIPT	BOA-59387080 - 1519107	\$59.25
02/09/2011	8527858	BANK OF AMERICA RECEIPT	BOA-81095007 - 1419514	\$49.25
01/05/2011	8394405	BANK OF AMERICA RECEIPT	BOA-17500366 - 1358200	\$9.25
01/03/2011	8386272	BANK OF AMERICA RECEIPT	BOA-54074209 - 1356414	\$99.25
09/28/2010	8051681	BANK OF AMERICA RECEIPT	BOA-93956793 - 1207776	\$29.25
08/18/2010	7905995	BANK OF AMERICA RECEIPT	BOA-04616853 - 1142353	\$9.25
07/20/2010	7800629	BANK OF AMERICA RECEIPT	BOA-64313397 - 1094789	\$79.25
04/26/2010	7490784	BANK OF AMERICA RECEIPT	BOA-20597381 - 951583	\$49.25
04/12/2010	7443669	BANK OF AMERICA RECEIPT	BOA-33303363 - 929682	\$19.25
02/23/2010	7249607	BANK OF AMERICA RECEIPT	BOA-71555412 - 835101	\$19.25
02/18/2010	7232796	JPAY DEPOSIT RECEIPT	JPAY - POWERS, SHONDA - 7894593	\$30.00
02/11/2010	7206211	JPAY DEPOSIT RECEIPT	JPAY - POWERS, SHONDA - 7806050	\$32.00

IN THE SUPERIOR COURT OF TURNER COUNTY  
STATE OF GEORGIA

2015/459-462  
Filed  
Turner County, Georgia  
Turner Superior Court  
05-26-15  
Mary Lee Green, Clerk

STATE OF GEORGIA,

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\*  
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Docket No.: 7144

v.

COPY

KENNETH G. MELTON,

Defendant.

ORDER

WHEREAS, Defendant KENNETH G. MELTON entered a plea of guilty to all counts of an indictment on May 17, 1989; and

WHEREAS, at said plea, Defendant was represented by attorney N. Glenn Perry; and

WHEREAS, Defendant alleges that he was entitled to a direct appeal of his guilty plea since there was evidence of error on the record of his guilty plea; and

WHEREAS, in the case of a guilty plea, the determining factor in the availability of an out-of-time appeal is the ability to decide the appeal based upon the existing record, and the only relevant effectiveness-of-counsel factor is whether the defendant had a possible ground for appeal about which the defendant's lawyer failed to inform him or her. However, if the defendant had no right to file even a timely notice of appeal from the judgment of conviction entered on his or her guilty plea, the defendant is not entitled to be informed of a non-existent right to appeal; and

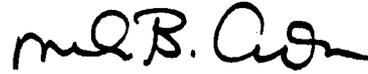
WHEREAS, if a defendant moves for an out-of-time appeal after he has entered a guilty plea, the defendant bears the burden of showing that he actually had a right to file a timely direct appeal, and that the right to appeal was frustrated by the ineffective assistance of counsel; and

WHEREAS, the Court has reviewed the record and the Clerk's file with regard to Defendant's case, especially the transcript of the guilty plea and the "Petition to Enter Plea of Guilt" signed by Defendant and his counsel on the date of the guilty plea (which is referenced by the Court in the transcript); and

WHEREAS, Defendant has failed to make the required showing in this case.

IT IS THEREFORE ORDERED, based upon the foregoing, that Defendant's Motion for Out of Time Appeal is hereby **denied**.

SO ORDERED this 20<sup>th</sup> day of May, 2015.



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MELANIE B. CROSS  
Judge of Superior Courts  
Tifton Judicial Circuit