

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

January 6, 2015

To: Mr. Johnny Meyers, GDC10038960, Dooly State Prison, 1412 Plunket Road, Unadilla, Georgia 31091

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.

History of Accounts

Offender: **WATERS, JOHN LEE** - UNO# [REDACTED]

There is no account history for this offender.

No Obligations Found.

No Court Charges Found.

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Send your system questions and recommendations to us

*No case
with the court
of appeals.*

In the Superior Court of Dougherty County of the State of Georgia

STATE OF GEORGIA

versus

JOHNNY MYERS, *Defendant*.

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*
*

Case Number 10 R 0385

Motion to Withdraw Guilty Plea

BRIEF IN SUPPORT OF
DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

Comes now, Defendant JOHNNY MYERS ("Johnny"), who submits this brief in support of his timely-filed motion to withdraw his plea of guilty as to Count 14 (armed robbery) of the above-named indictment.

Here, Johnny pleaded guilty under the misunderstanding that by doing so he would get to go home when in reality he was pleading guilty under an agreement that would result in an initial sentence of imprisonment for twenty years which, by law, would be served without the possibility of parole. This grievous misunderstanding stemmed from the unorthodox nature of the plea itself, from Johnny's distinct lack of mental acuity (including his "[e]xtremely [l]ow" intelligence and deficiencies in his ability to follow along and to understand complex material), and from his Attorney's deficient performance. Allowing Johnny to withdraw his plea of guilty to Count 14 (armed robbery) is necessary to correct a manifest injustice. Further, granting this request will not unjustly benefit Johnny, as the full plea was never realized and as the state still must try him on the fifteen felony counts still pending against him.¹

Procedural History

Johnny's plea took place on November 27, 2012, before this Court (Marshall, J.), which conducted the hearing as a courtesy to the assigned judge (Lockette, C.J.) (Plea 1)², who was then in the midst of a separate trial (Marshall

¹ Please note, the case against co-defendant Otis Myers also is pending trial.

² References to the transcripts of the following hearings include the described abbreviations followed by the appropriate page numbers: (1) the November 27, 2012 plea hearing ("Plea"); (2) the August 23, 2013 hearing before Judge Lockette ("Lockette"); and (3) the August 18, 2014 hearing before Judge Marshall ("Marshall").

Circumstances, at one Time ^{Copy 4}
And if you or Convictions you will go
To Prison for Life. So it is Best
for lesser offenses. And you To Tack
The guilty pleas. This is one of The ERRED
in The Convictions. or sentencing.
Motion to void The Judgment of The guilty
plea to The armed Robbery.

Complained This guilty pleas were Not Voluntary
and were The product of trial Counsel's
Wrongful Conduct And ineffective

ASSistance. see OCGAS 14-9-70.

MR Johnny - Seeking For The truth.

That is ~~is~~ insufficient to convince.

beyond A Reasonable-doubt. is a doubt
for which A Reason can be given arising
from a consideration of The evidence
a Lack of evidence, or A conflict in
The evidence.

A defense except insanity - is raised by evidence, The burden is on The State To negate OR disprove it beyond a Reasonable doubt. The Reasonable doubt is A doubt of a Fair-Minded impartial JUROR honestly. A few days after The plea. hearings, MR. Myers Request Form asking This his guilty plea be withdrawn.

This is Not just for The error Has Been Shown. Not only error but prejudice. And harm. totality of The evidence presented at guilty pleas alleged error. The basis for Appeal That opposing Counsel during The trial properly object to The arguments, invoke The Rulings or instruction of The and if dissatisfied with The Action, Taken to Renew.

The objection and Move for Mistrial. (492-S.E.2d 828)

The Credibility of MR

may be attacked by cross-examination directly to the issues.

wrongfully excluded. it was no evidence. And it was misleadingly by counsel.

by saying that "nobody in this

room really knows how long you'll serve,

it's the parole board that determines

how long?" you serve.

MR Johnny was prejudiced by it.

During the plea whether he would go home

or do the straight twenty or do just

ten off the. Attorney said

that he'd explained.

IN THE COURT OF APPEALS

1 Copy

STATE OF GEORGIA

DOCKET NO 2010R0385

Johnny MEYERS.

v.

STATE OF GEORGIA.

MOTION To Withh DRAW Guilt plea.

STATEMENT OF FACT

ON APRIL 21-2010- The defendant,

Johnny Lee MYERS was indicted

A Long with Leo Rubain Meyer
And Otis Meyers - for Aggravated ASSault
with intent To Rob - 8 Counts) CRUELTY
To Children in The 3rd degree Possession
of a firearm during The Commission
of A Felony (3) Counts Illegal USE
of SPECIFIC, Weapon - during

defense exhibit 2

The Fact is defendant did not understand
The plea. At The Time.

The defense was under medical care at The
Time. And as to The day. And The
defendant was Not competent OR Able
To enter No plea. This was ignorance.

By Has Law at The Time. it Results in
prejudice to The defendant. See
Green v State 281 Ga. at 324. The Fact is
that petitioner's trial attorney was
ineffective for to investigate adequately
whether a witness had a deal with
prosecutors. Romano 239 F. 3d at 1173 n.7;
See also Hall, 294 F. 3d at 214

The prejudice flowing from such
counsel error. is magnified
here by The crucial nature of Jackson
testimony to The State Case.

And his family was greatly limited
by time to help him as defense to under-
stand this case. The counsel's failure
to engage himself with The
substance of The case.

petitioner and his parents
said counsel never discussed trial
strategy with them.

in stead told him to take The plea.
That was The best option for The
defendant at The time.

Alleges That Defendant Received ineffective
ASSISTANCE OF Counsel For Received UNaware
OF The Law At The Time And The petitioner
SHOWS BY A PREponderance OF The
evidence - That it is based ON grounds OF
which He Could Not Have - OR Had Knowledge
At The Time. The EXERCISE OR Reason Able
diligen be For. The CIRCUMSTANCES,
PREjudicial to The Respondents,
OCCURRED. And ON The Fact. if ONE Do
Not Knowledge OF The law. opportunity is -
That ONE Can Be MISlead That is Fact. it is
UP OR Her OR His. Legal REPRESENTATION
To UP Hold The Law For Them. OR - His - OR
Her defendant. AS To The Court. The best option
For The defendant - is To go To TRIAL However
He will not be MISlead And A. investigated

Can be done by Doctor And The Georgia Law as Need. And A Conducted on-

The defendant Not just one Day
And defendant Do want To Stand Trial
By The law during Trial Term.

defendant is ASK To let The Case Calendarred
for a Trial By The law defend is ASK
To go Back To That County.

EXhibit 2 Counsel failed to inquire - A
Deferred And Performance, ground
is A function - of The Prejudice,
flowing - counsel § - deficient,

Performance - Repeatedly
stating Prejudice. inquiry in Aggregate
Terms of Reasonable probability and
Fact. on Counsel ERRORS.

Affected out come. - Short coming - And
 omissions) And holding
 These errors had A devastating - impact -
 ON The defense. Turner - v Duncan)
 158 F. 3d 449, 454 (9th Cir 1998
 Lit. is given The occas - procedural Rejection -
 of ineffectiveness an Adequate assessment of
 Prejudice arising from The ineffectiveness -

of Counsel. This is with Counsel - Told
 MR ~~John~~ Johnny MYERS. in This Case evidence used
 To convict MR Myers, of aggravated assault
 And possession of a firearm during The
 Commission of that Crime
 was also used to Convict him of The
 armed Robbery. Counsel
 Told Him you will be tried for all, of
 offenses under such

Motion to Suppress evidence. And The ^{copy} Statements in guilty plea. Case that any statements in guilty plea inadmissible since He was wrongful ~~an~~ conduct and ineffective assistance.

Review under O.C.G.A. § 17-5-30, it was The State's burden to prove that officer. Court Rule 33.10 set out plea procedures under which a trial court is mandated to tell a defendant if it intends to reject a plea agreement and that he has the right to withdraw his plea. No plea agreement, signature - PROSECUTOR'S AND COUNSEL.

Forrest 281 Ga. App
because The evidence against MR Johnny.
There was a reasonable probability The
Trial's outcome would have been
different. but for ~~what~~ what

Copy 10
What he find Was a Mistake by
Counsel. which Could not
be dismissed

even within the wide range
of professionally competent assistance.
abandonment of mitigation efforts
by my trial Counsel was not competent

Representation.

Forrest 281 Ga App. 487 (2001)
Right to withdraw Negotiated
plea: is a Contract Browne v.
State. Case no. A13A 1490 (October
9, 2013).

MR Johnny
immediately tried to
withdraw The plea, but the trial Court
Refused The Request.

A written motion to withdraw is
Been filed ON The COURT OF Appeals
ASK To REVERSE. This Case.

This is and that the end Result
of a negotiated agreement is in essence,
A contract. ~~A Court Contract~~ A defendant
Can't be held to his end of The

bargain if The State's end of it
is Rejected. State v. Germany,
246 Ga. 455 (1980); Clue, 273 Ga.
App. 672 (2005) Rosser, 273 Ga. App

955 (2005) Malkey 263 GA App 631
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