

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

March 23, 2015

To: Mr. David Milam, GDC1287030, Autry State Prison, Post Office Box 648, Pelham,
Georgia 31779

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.

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March 15, 2015

COURT OF APPEALS OF GEORGIA

Dear Court of Appeals of Georgia.

I, David Milam (Defendant) Indictment No: 2008-RCCR-1337: I'm writing this missive of request to inform this court of a conflict of interest I have with my Public Appellate Attorney; Russell Jones State Bar No: 958501. My Appellate counsel has violated my Sixth Amendment by deprive me of adequate assistance as my counsel. On January 6, 2015 I was represented by Russell Jones at a Motion for New Trial. I (Defendant) inform my appellate attorney of the defence I wanted him to raise, ineffective assistance of Counsel against my Trial counsel (Hugh Hadden). I inform my counsel that I had to raise this claim at the Motion for New Trial hearing, so I can raise it at my Appeal stage. Appellate attorney showed inadequate performance by refusing to raise claim. I (Defendant) had to raise his Sixth Amendment claim to protect my rights. Mr. Russell Jones has now agree to raise my claim of ineffective assistance of Counsel at Appeal Court. But I don't trust counsel so I wanted to notify the Court of Appeals of my issue. I want my Appellate counsel to raise the claim of ineffective assistance of Counsel against my Trial attorney (Hugh Hadden). Trial counsel violated my fourth Amendment by not inform appalls of his right to file a Motion to Suppress Probable Cause. The suppress hearing would've shown that appellant only witness made two inconsistent

statements and would've show lack of credibility and trust-worthiness for probable cause. *Aguilar vs Texas* 378 U.S. 108 (1964) 12 L Ed 2d 723 deals with tips, leads, there's a two pronged test "Reliability of witness, 2) Underlying facts + circumstances of lead. *Taylor v Alabama* 457 U.S. 687, 102 S.Ct 2664 73 L.Ed 2d 314 (1992).

Trial counsel (Hugh Hadden) violated my sixth amendment by not informing appellant of his right to be confront by witness. Trial counsel allow two deputy an a Investigator to tell jury how they use witness statement to make a warrantless-arrest on appellant. Trial counsel never object at trial to officer testimonial. Trial counsel as well violate appellant Due-process by allowing an involuntary confession to be allow to convict appellant. *Crawford v Washington* 541 U.S. 36 (124 S.Ct 1354, 158 L.Ed. 177 (2004)) covers were accused had no opportunity to cross-examine the witness violated the Sixth Amendment an Confrontation Clause.

Thank you for hearing my concerns

David Milam

March 15, 2015

Dear Court Appeals of Georgia

I have ask Appellate counsel to raise an-effective assistance of counsel on trial attorney Hugh Hadden failed to attack faulty indictment. O.C.G.A. 17-9-4 states I can raise this claim in any court.

On my Indictment the Second Count states; Alajwon Singleton and David Milam are charge wit Possession of a Firearm during the Commission of A Crime. did have on his person a firearm to wit, a certain hadgun, to wit Armed Robbery. The Fatal Variance principle apply to Indictment count two because a firearm was never produced as evidence. Statemens that is contrary from what an indictment says, is extremely forbidden and is a Violation of Defendants Due-process 5+16 Amendment. In the Ambiance of Abiguity the indictment un-clear in a conflicting manner. Appellant contends that the Indictment Does Not Specif exactly who is 'his' though there were two names given for this alleged charge Appellant is confused as to which (alleged) criminal had a gun. This conflicting error was hazardous towards appellante by way of axiomatically being concluded as guilty to the charge of using the gun.

Youngblood vs State 253 GA App 327 [2002] Counsel ineffective Failed to attack Validity of Indictment

Towers vs State 260 G.A 459 [1996] trial counsel failed to pursue (Towers) defense theory

Appellant relies on these case law

Pruitt vs State 218 S.E. 2d -679 [1975] Indictment can not be conformed to the evidence. Every defendant has the right to be tried upon and indictment Perfect in form and substance

Russell vs U.S. 369 U.S. 749, 769-770 [1962]

Harris vs State 659 S.E. 2d 870 [2008]

Trial Counsel was ineffective for not filing "Severance relief", violated Due Process and showed prejudice. Both defendants found in different rooms. Gun clip was found in the room Najuman Singleton was in, not the room David Milam was in. So how can we both be charge with Poss/6F/Arm During the Commission of a crime.

I David Milam am notify the Court of Appeals of Georgia of this claim. And the conflict of interest with my Appellate Counsel Russell Jones not pursue this defense theory.

Jowers vs State 260 G.A. 459 [1990] Shickland vs Washington

Thank you for your time.

David Milam