

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

May 13, 2015

To: Mr. Grover Mixell, GDC1001022157 F2 142B, Calhoun State Prison, Post Office Box 249, Morgan, Georgia 39866

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.

IN THE STATE COURT OF APPEALS.
STATE OF GEORGIA

GROVER Mixell

G.D.C.# 1001022157

VS.

THE STATE OF GEORGIA

County Superior Court, et. seq.

DOCKET NO.

CASE NO. 2010 R 023

DEFENDANT'S NOTICE TO FILE AN APPEAL

FILED
DISTRICT CLERK
MAY 11 2010 3:28
MAY 11 2010 3:28

COMES NOW GROVER Mixell, PRO-SE, AND GIVES
THIS NOTICE TO THE TRIAL COURT OF Liberty
COUNTY, AS THE DEFENDANT INTENDS TO APPEAL THE
COURTS DECISION WHICH IS A MISAPPLICATION OF
THE LAW. [SEE ATTACHED EXHIBIT].

THE DEFENDANT IS REQUESTING THAT THE
GEORGIA COURT OF APPEALS EXERCISE JURISDICTION
ON THE SUBSTANTIVE DEFECT ACCERTED WITHIN
THE SUBSTANCE OF THE MOTION TO CURE A SUB-
STANTIVE-VOID MERGER VIOLATION. (ASSAULT AS DEFINED IN
D.C.G.A. § 16-5-20[A][1] IS AN ATTEMPT., (A PARTICULAR, SPECIFIC) TYPE
OF ATTEMPT),, TO MAKE A SUBSTANTIAL STEP TOWARDS, COMMITTING

A BATTERY-CONTACT ON THE ALLEGED VICTIM, Young v. State, 181 GA. APP. 587, 353 S.E.2D. 82 (1987); "ASSAULTING VICTIM WITH AN INTENT SPECIFIED IN THE AGGRAVATING COMPLETE OFFENSE, IS NOT THE SAME AS SPECIFIC INTENT TO COMMIT BATTERY. THE SPECIFIC AND PARTICULAR TYPE OF ATTEMPT CONDUCT TO COMMIT A SPECIFIC BATTERY IS FOUND ONLY IN ASSAULT." O.C.G.A. §16-4-1 "RELATES TO", THE FIRST ESSENTIAL ELEMENT OF [O.C.G.A. §16-5-21], AGGRAVATED ASSAULT, THE ASSAULT, AND NOT TO THE SECOND ELEMENT (ALTHOUGH IT MAY HAVE SPECIFIC AND GENERAL INTENT IN IT AS WELL).

THE TRIAL COURT IS MISTAKEN IN ITS JUDGMENT FOR NOT PROPERLY APPLYING THE ABOVE-STATED AUTHORITY IN THE SUBSTANTIVE LIGHT OF CANTERA v. STATE, 289 GA. 583, 713 S.E.2D. 826 (2011), CIT. CHASE v. STATE, 277 GA. 636, 639(2), 592 S.E.2D. 656 (2004) .., "AND THERE ARE CERTAINLY CIRCUMSTANCES UNDER WHICH SIMPLE ASSAULT WOULD CONSTITUTE A SUBSTANTIVE POINT OR ISSUE..." IN CONY v. STATE, 290 GA. APP. 364, 369(1), 659 S.E.2D. 768 (2008) THIS ESSENTIAL ELEMENT WAS OF A PHYSICAL ACT OF ATTEMPTING TO COMMIT.., THIS WAS AN ELEMENT THAT WAS A NECESSARY ELEMENT, SO IT MUST BE GIVEN TO THE JURY. "THE JURY MUST BE GIVEN THE SUBSTANTIVE POINT OR ISSUE IN EVERY CASE. DRIVER v. STATE, 194 GA. 561, 22 S.E. 2D. 83 (1942)." WHEREFORE, THE SUBSTANTIVE POINT OF ISSUE INVOLVED IN THIS INSTANT NOTICE TO APPEAL IS

IS NO DIFFERENT IN A Guilty Plea. Smith
V. HARDRICK, 266 GA. 54, 464 S.E.2D 198, (1995), Although
EVERY CASE IS NOT A Guilty Plea.

IN THIS INSTANT CASE, THIS IS A CASE OF
A Guilty Plea. Therefore, the Question IS:

A.

Does AN Appeal Lie FROM A Guilty Plea?

B.

IS There A WRITTEN WAIVER OF The Guilty Plea
Appeal?

C.

IF AN Appeal IS AUTOMATICALLY WAIVED Due
Solely TO A plea OF Guilty, Should This Georgia
COURT OF Appeals EXERCISE JURISDICTION AND
HEAR The CASE UPON The DENIAL OF The TRIAL
COURTS Ruling.

Defendant WHEREFORE PRAYS THAT NOTICE
HAS BEEN Sufficiently GIVEN TO The TRIAL COURT
OF Deberts County AND The Georgia COURT OF
Appeals.

This 5 DAY OF MAY, 2015.

Respectfully Submitted,

[Signature]

GROVER MIXEL

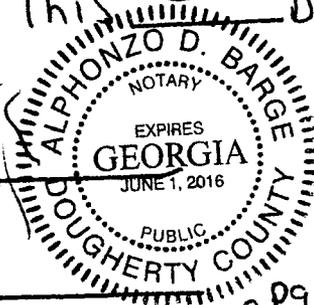
G.O.C. #1001022157

PRO-SE

[Signature]
NOTARY,

6-1-16

my Commission Expires.



CERTIFICATE OF SERVICE

This IS TO CERTIFY THAT I HAVE SERVED A COPY
OF THE SAME FILE AN APPEAL ON THE OPPOSING PARTY
RESPONDENT BY PLACING THE SAME IN THE UNITED
STATES POSTAL SERVICE WITH PROPERLY AFFIXED POSTAGE
TO ENSURE ITS DELIVERY AND SENT TO THE FOLLOWING

DISTRICT ATTORNEY OFFICE
945 E MILES PARKWAY
WINESVILLE GA 31313

This 5 DAY OF MAY 2015

RESPECTFULLY SUBMITTED
GROVER MITCHELL
6DC 1001022157
PO BOX 249
MORGAN GA 39826
[Signature]

NOTARY

EXHIBIT



SUPREME COURT of GEORGIA
CLERK'S OFFICE
244 Washington Street, Room 572
Atlanta, Georgia 30334

NAME: Grover Mixell

DATE: APR 21 2015

The Rules of the Supreme Court of Georgia are available on our website at www.gasupreme.us. Please note Rules _____. We no longer have paper copies available for distribution.

I am sorry that I can not help you with the answers to your questions. Employees of this Court may not give legal advice to litigants.

I do not find an appeal of yours pending in this Court in which to file your papers.

This office does not have forms of any kind for distribution.

Your recent letter to Justice _____ has been forwarded to this office for a response. The Justices can not advise you as to how to go about trying to solve the problem you describe. The Justices may consider cases pending in the Court, but may not advise litigants or discuss cases with them, except within authorized procedures.

This Court is unable to supply copies without charge. If you will remit the cost of copying, we will send you the documents you requested. The charge for these documents is \$_____.

A pauper's affidavit cannot be accepted in lieu of payment for copying charges. Pauper's affidavits can only be used for costs for filing an appeal or an application for appeal.

Filing of a pauper's affidavit requires a finding by the trial court judge of pauper status and entry of an order so stating. This is not automatic with the filing of your affidavit.

Neither this Court nor any other court in this state is subject to the open records act.

In order to seek appeal of a habeas corpus case, two filings must be made, both within 30 days of entry of the judgment sought to be appealed. OCGA § 9-14-52 (b). Please note Fullwood v. Sivley, 271 Ga.248 (Case No. S99H0240, decided June 2, 1999). The application should explain where the habeas trial court has erred in making its decision in ruling on your habeas case.

Appointment of counsel is a matter that should be addressed to the trial court.

A petition for mandamus should be filed in the superior court rather than this Court. If the ruling in the trial court is adverse, you may then file an application to appeal to this Court. Please note Brown v. Johnson, 251 Ga. 436 (1983). You will need to check with the trial court clerk on any rules or requirements for filing there.

Petitions for certiorari must be filed within 20 days of the denial of the motion for reconsideration or within 20 days of the judgment, if no motion for reconsideration is filed. Since the Court of Appeals acted in your case on _____, the time for filing a petition for certiorari in this Court has passed.

OVER

Perhaps, you should write to Stephen Bright, Southern Center for Human Rights, 83 Poplar Street, Atlanta, Georgia 30303.

You may write the Georgia Public Defender Standards Council if you are without counsel or with counsel with whom you have become dissatisfied. The address is: Ombudsman, Georgia Public Defender Standards Council, 104 Marietta Street, Suite 200, Atlanta, Georgia 30303.

Questions concerning your conviction may be raised for judicial review by filing a habeas corpus petition in the trial court in the county in which you are incarcerated. That court will review the issues you raise, and, if you are not satisfied with the result, you may petition this Court for a review of the judgment. Forms may be obtained from the Warden.

I am returning your documents to you for your further use.

~~You have titled your filing "Petition for Writ of Certiorari" however it does not appear that you had a case before the Court of Appeals. Petitions for Writ of Certiorari are cases appealed to this Court from the Court of Appeals.~~

~~If you are trying to file a direct appeal,~~ your notice of appeal should be filed in the trial court within 30 days of the entry of judgment. The notice of appeal triggers the transmittal of the record in your case to this Court from the lower court. After the record is received by this Court and docketed, you will be sent a docketing notice showing the case number and the date of docketing so that you may file your briefs in this Court.

~~In the event you are seeking to file an Application for Discretionary Appeal,~~ you must attach a copy of the order being appealed to your application within 30 days of the entry of judgment. You also must include in the application the court in which the order was entered, the case number and date of the order and why you are appealing the order to this Court.

Please note that any documents to be filed in this Court must have a certificate of service attached showing the name and address of the person on the other side of the case to whom you have sent a copy of your filing.

Therese S. Barnes, Clerk