

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

July 21, 2015

To: Mr. Booker T. Moore, Jr., GDC1001129202, CCA/Coffee Correctional Facility, Post Office Box 650, Nicholls, Georgia 31554

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.

STATE COURT

State of GA OF APPEALS OF

VS

Georgia

GDC#1001129202

Booker T. Moore, Jr.

Motion to demand Transcript

Pursuant of OCGA § 5-5-40 and 5-3-20
A motion for NEW TRIAL WAS wrongfully denied
by the Superior Court in the ABOVE-STYLED
CASE AFTER DEFENSE COUNSEL FAILED TO FILE
FOR DEFENDANT WITHIN SUPERIOR COURT (30) THIRTY
DAY FILING DATE. Thus making defendant Eligible
For Post Conviction Relief.

DEFENDANT MOORE then filed to the
State of Georgia Court of Appeal and was prohibited
DUE PROCESS BECAUSE THE STATE PROSECUTOR FAILED
TO PRODUCE AN ACCURATE RECORD OF THE SUPERIOR
COURTS TRIAL TRANSCRIPT. SEVERAL ATTEMPT + REQUEST SENT TO COURT REPORTER.

RULE 14(C)(2) THE CONFLICT OF COUNSEL TO
PROCEED FORWARD DUE TO THE LACK OF THE STATE
NOT PROVIDING A VALID COPY OF THE TRIAL TRANSCRIPT.

RECEIVED IN OFFICE
2015 JUNE 21 AM 11:31
CLERK OF SUPERIOR COURT OF GEORGIA

- (e)
- A) CERTIFIES that Counsel cannot proceed without AN ACCURATE NARRATIVE of the Case.
- B) Rule 14 (C)(2) when there is an apparent conflict. (A) the Appellantes Arguments prevail over TRIALS, HEARINGS AND CONFERENCES
- C) Rule 14 (C)(3) the Clerk shall resolve conflicts so as to ACCOMMODATE all parties IN SO FAR AS POSSIBLE.

We petition this Court that has jurisdiction to require a speedy NEXUS in facilitating a PROCEDURAL resolve or Dismissing/Suppressing the VERDICT.

Thanking You in Advance

Booker Terrell Moore, Jr
CDC # 1001129202

**REQUESTS BY DEFENDANT FOR PRODUCTION OF DISCOVERABLE MATERIAL
PURSUANT TO O.C.G.A. § 17-16-1 ET SEQ.**

COMES NOW the Defendant in the above-styled case, having elected to have the provisions of O.C.G.A. § 17-16-1 *et seq.* apply to Defendant's case, and hereby formally requests in writing that the State disclose to the Defense or produce to the Defense for inspection, copying, photographing, examination, testing, or analysis the following:

1. A true and correct copy of the indictment or accusation and list of witnesses applicable in Defendants case pursuant to O.C.G.A § 17-16-3.

2. A complete and accurate list of witnesses, including confidential informants, who have provided any information to the prosecution, police and any other investigating agency including but not limited to any and all names and aliases, current locations, dates of birth, social security numbers, and telephone numbers pursuant to O.C.G.A. § 17-16-8.

3. Any and all statements required to be produced pursuant to O.C.G.A. § 17-16-4(a)(1).

4. A true and correct copy of Defendant's Georgia Crime Information Center criminal history pursuant to O.C.G.A. § 17-16-4(a)(2).

5. Any and all books, papers, documents, photographs, tangible objects, audio and video tapes or films, recordings, buildings and other places controlled by the State and any other items as described or contemplated in O.C.G.A. § 17-16-4(a)(3).

6. Any and all results and / or reports of physical and/or mental exams and of any and all scientific tests including, but not limited to any summaries indicating the basis for any expert opinion rendered in said reports pursuant to O.C.G.A. § 17-16-4(a)(4).

7. Any and all statements of any and all witnesses intended to be called at trial or any

pre-trial or post-trial hearing pursuant to O.C.G.A. § 17-16-7.

**DEFENDANT'S MOTION FOR DISCOVERY, INSPECTION, PRODUCTION
AND COPYING OF EVIDENCE FAVORABLE TO THE ACCUSED PURSUANT
TO BRADY V. MARYLAND**

COMES NOW the Defendant in the above-styled case and respectfully moves this Court, pursuant to the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article 1, Section 1, Paragraphs 1, 11, and XIV of the Georgia Constitution as construed and applied in the case of Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, including Giles v. Maryland, 386 U.S. 66 (1967); Giglio v. United States, 405 U.S. 105 (1972); and Hicks v. State, 232 Ga. 393, 207 S.E.2d 30 (1974), to order the prosecution to permit defense counsel to inspect and copy all evidence in the possession and control of the State which may be favorable to the Defendant and material to the issues of guilt or punishment, and which could reasonably weaken or affect any evidence proposed to be introduced against the Defendant at trial or at sentencing.

The evidence sought is to include, but not be limited to:

1. All evidence, including statements of individuals, physical evidence or test results indicating or tending to indicate that the Defendant is not guilty of the offense charged or mitigating on the issue of sentence.
2. All statements of any witnesses which contradict in any way the statements of other witnesses or which contradict other statements made by that witness.
3. All reports, memoranda, or other information in possession of the State which contain information exculpatory, helpful, favorable, or arguably favorable to the Defendant on the issue

of guilty or innocence or as to sentence.

4. A complete and detailed list of the arrests and convictions of all State witnesses, whether the State will actually call these witnesses at the trial or not, including any and all charges currently pending against said witnesses which have not yet been officially disposed of by plea, trial, or otherwise. See Strong v. State, 232 Ga. 294, 299-300, 206 S.E.2d 461 (1974), citing Brady v. Maryland, 373 U.S. 83 (1968).

5. Memoranda, documents, or reports of any scientific tests or experiments or studies made in connection with the above-styled case, including any polygraph examinations of any witness, which may be arguably favorable to the defense.

6. Copies of any and all arrest warrants relating to this case pursuant to O.C.G.A. § 17-4-41.

7. Copies of any and all search warrants and warrant returns relating to this case pursuant to O.C.G.A. § 17-5-25.

8. Copies of any and all police or sheriff's reports relating to this case pursuant to O.C.G.A. § 24-10-26; Henderson v. State, 255 Ga. 687, 690, 341 S.E.2d 439 (1986); O.C.G.A. §§ 50-18-70 and 50-18-72; Cox Enterprises, Inc. v. Harris, 256 Ga.299, 348 S.E.2d 448 (1986).

9. All material now known to the State or which may become known which is exculpatory in nature or favorable to the accused or which may lead to exculpatory material. This request includes reports of any investigations conducted by the State, or its agents, of individuals other than the Defendant.

10. The State is required to reveal to the defense not only information "in its file", but should also be ordered to make inquiry of all law enforcement or other agencies involved in this

prosecution and to require those agencies to review their files and to provide to the prosecution any information arguably favorable to the defendant, including information specifically described above. At a minimum, inquiry should be made of the police investigatory files. *See, e.g., Pennsylvania v. Ritchie*, 480 U.S. 54, 57 - 61 (1987)

, *Freeman v. Georgia*, 599 F.2d 64, 69 (5th Cir. 1975) (State held accountable for information known only to investigating police detective); *Brown v. State*, 261 Ga. 66, 401 S.E.2d 492 (1992); *Issacs v. State*, 259 Ga. 717, 386 S.E.2d 316 (1989).

11. There may be other items and matters of evidence, information, and data in existence that are not enumerated aforesaid and of which Defendant is unaware. Defendant now requests and demands that Defendant be afforded with any and all evidence and information, whether specifically delineated and listed herein or not, which is known or may become known, or which through due diligence may be learned from the investigating officers or the witnesses or other persons having knowledge of this case, which is exculpatory in nature or favorable to the accused or which may lead to exculpatory or favorable material, or which might serve to mitigate punishment. This includes any evidence impeaching or contradicting the testimony of prosecution witnesses, or instructions to prosecution witnesses not to speak with or discuss the facts of the case to defense counsel. *See Agurs v. United States*, 427 U.S. 97 (1976); *Brady v. Maryland*, 373 U.S. 83 (1963); *United States v. Giglio*, 405 U.S. 150 (1972); *Sellers v. Estelle*, 651 F.2d 1074, 1077, n. 6 (5th Cir. 1981); *Banks v. State*, 235 Ga. 121 (1975); *Rini v. State*, 235 Ga. 60, 218 S.E.2d 811 (1975); *Holbrook v. State*, 162 Ga.App. 400, 401, 291 S.E.2d 811 (1982).

WHEREFORE, Defendant prays as follows:

A. That a hearing be held on this motion in order that the proper foundation may be laid as to what evidence, information and data is in the possession of the State and prosecution and that the State be directed to make such disclosures immediately.

B. That if any part of said documentary evidence is not made available to Defendant the Defendant respectfully moves the Court for an Order directing the District Attorney to produce all such documents and evidence and to submit the same to his counsel at the close of the State's evidence.

C. Without waiving the foregoing, the Defendant requests that an exact copy be made of each item which is not presented to defense counsel and that the same be sealed and included in the record of this case for the purpose of insuring effective review of the Court's denial of the Defendant's previous request for disclosure; and

D. That the duty of the District Attorney to disclose pursuant to this motion be considered as continuing up until and through the trial and post-judgment proceedings.

**MOTION FOR PRE-TRIAL DISCLOSURE OF EVIDENCE OF
INDEPENDENT AND SEPARATE OFFENSES, WRONGS OR ACTS**

COMES NOW the Defendant named in the above-styled case and hereby moves this Court to order the prosecution to disclose immediately all evidence of independent and separate offenses, wrongs or acts which the prosecution may attempt to introduce at trial to show motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident regarding the Defendant's actions or conduct, including any evidence to be offered as alleged

"prior difficulties" between the Defendant and any alleged victim. *See* Uniform Superior Court Rules 31.1 and 31.3; Maxwell v. State, 262 Ga. 73(2), 414 S.E.2d 470 (1992).

WHEREFORE, the Defendant prays that this Motion be granted.

MOTION TO REQUIRE THE STATE TO REVEAL ANY AGREEMENT ENTERED INTO BETWEEN THE STATE AND ANY PROSECUTION WITNESS THAT COULD CONCEIVABLY INFLUENCE HIS OR HER TESTIMONY

COMES NOW the Defendant in the above-styled case, by and through the undersigned counsel, and respectfully moves the Court for an Order requiring the State to reveal any agreement entered into between the District Attorney's office or any other law enforcement agency and any prosecution witness that could conceivably influence said witness' testimony.

The credibility of prosecution witnesses will be an important issue in this case. The evidence of any understanding or agreement as to future prosecution or any other consideration is relevant to that issue. *See* Giglio v. United States, 405 U.S. 150 (1972). This would include any and all consideration given to or made on behalf of co-conspirators, whether indicted or unindicted, and any other government witness. By "consideration", the Defendant refers to absolutely anything of value or use, including but not limited to immunity grants, witness fees, release on bail, release on bail without security, special witness fees, transportation assistance, assistance to members of witness' family members or associates of witnesses, assistance or favorable treatment with regard to any criminal, tax, civil, forfeiture, or administrative disputes or potential dispute with the State or the United States of America (including any possible probationary, parole deferred prosecution situation), placement in a "witness protection program", and anything else which could arguably create an interest or bias of the witness in

favor of the state or against the defense or act as an inducement to testify or to color testimony.

The refusal or failure of the prosecution to reveal any said agreement constitutes a violation of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, the Defendant prays that this Motion be granted.

MOTION FOR IN-CAMERA INSPECTION OF STATE FILES

COMES NOW the Defendant in the above-styled case, by and through undersigned counsel, and moves this Honorable Court, pursuant to the authority of the Supreme Court of Georgia as set forth in Tribble v. State, 248 Ga. 274, 280 S.E.2d 352 (1981), and Wilson v. State, 246 Ga. 62 (1980), to do the following:

1. Make an in-camera inspection of any files and/or documents in possession, custody, or control of the State, including but not limited to, any documents in the possession of any law enforcement agency pursuant to O.C.G.A. § 17-16-1. That said inspection be for the purpose of determining whether the Defendant is entitled to listen to, copy or read, prior to trial, all or any portion of the State's file pursuant to the any of the Defendant's Discovery Motions.

2. That said in-camera inspection of the entire State's file be conducted prior to trial and that this Court separately review any statements made by any and all State witnesses after the testimony of said witnesses at trial.

WHEREFORE, the Defendant prays:

A. That this Honorable Court make an in-camera inspection of the State's file and in regard to those items not voluntarily disclosed by the prosecution, that the Court turn over to

defense counsel all such material which the Court finds to be favorable to the Defendant as to innocence or sentencing;

B. Without waiving the foregoing, the Defendant request that an exact copy be made of each item present in the prosecution files which is not presented to defense counsel and that the same be sealed, filed with the Clerk of this Court, and included in the record of this case for the purpose of insuring effective review of the Court's denial of the Defendant's previous request for disclosure.

MOTION TO PRESERVE THE EVIDENCE

COMES NOW the Defendant in the above-styled case, by and through the undersigned counsel, and moves this Honorable Court for the entry of an Order directing the prosecution and all law enforcement agencies involved in the investigation and prosecution of the above-styled case to preserve and keep intact any and all investigative reports (including rough drafts), witness statements, documents, papers, rough notes (interview, surveillance or otherwise), tapes (both audio and/or video), objects, contraband, controlled substances or any other physical evidence in their possession, custody, control, or which through the exercise of due diligence could be so possessed or controlled. This includes any and all material(s) which could conceivably be viewed as being exculpatory in nature to the Defendant and discoverable under O.C.G.A. § 17-16-1 *et seq.*

The Defendant further requests, pursuant to O.C.G.A. § 17-16-4, that the Defendant's counsel be allowed to examine, inspect, and test said items at a specific time and place to be fixed by the Court and that the time and place of said inspection and testing be set at a reasonable time in advance of the Defendant's trial.

This request for preservation and inspection of the evidence is essential to insure the Defendant's right to a fair trial, right to confront any adverse witnesses, right to prepare a complete and adequate defense, right to the effective assistance of counsel and the right to due process of law as guaranteed by the Constitution of the United States and the Constitution of the State of Georgia. *See also* Patterson v. State, 238 Ga. 204, 232 S.E.2d 233 (1977); Barnard v. Henderson, 514 F.2d 744 (5th Cir. 1975).

WHEREFORE, the Defendant prays that this Motion be granted.

MOTION TO SUPPRESS

COMES NOW the Defendant in the above-styled case, by and through the undersigned counsel, and moves this Honorable Court to suppress the following:

1. Any and all evidence illegally obtained and/or seized by the State.
2. Any and all evidence of pre-trial and in-court identification of the Defendant.
3. Any and all statements made by the Defendant.

In support of said Motion, the Defendant asserts that the above-referenced evidence was obtained in violation of the laws of the United States and the State of Georgia.

Defendant expressly reserves the right to amend and supplement this motion as new facts and information become available through the State's responses to the Defendant's discovery requests, or otherwise.

WHEREFORE, the Defendant respectfully requests that this Honorable Court conduct a full and complete hearing regarding this Motion to Suppress and order the suppression of any evidence seized, obtained, or acquired in violation of the laws of the United States and the State of Georgia.