

**COURT OF APPEALS OF GEORGIA  
DOCUMENT RETURN NOTICE FOR APPLICATIONS**

**April 2, 2015**

**To:** Mr. William T. Murray, GDC469640 K-1-232T, Smith State Prison, Post Office Box 726, Glennville, Georgia 30427

**Docket Number:**   **Style:**

Your document(s) is (are) being returned for the following reason(s).

1.  Your Application was not accompanied by the statutory filing fee, \$300.00 civil; \$80.00 criminal, or a sufficient pauper's affidavit. OCGA§5-6-4 and Rule 5 Please be advised that your pauper's affidavit should be notarized by a notary public.
2.  Portions of the record included were not tabbed and indexed. Rules 30 (e) and 31 (c).
3.  A stamped "filed" copy of the trial court's order to be appealed was not attached to your Application. Rules 30 (b) and 31 (e)
4.  A stamped "filed" copy of the Certificate of Immediate Review was not attached to your Interlocutory Application. Rule 30(b)
5.  Your document(s) was (were) not signed by counsel (No signatures with expressed permission are permitted). Rule 1 (a)
6.  There were an insufficient number of copies of your document. Rule 6
7.  No Certificate of Service accompanied your document(s). Rule 6 You should provide a copy of your filing to the District Attorney and include his/her name and address on your Certificate of Service.
8.  Your Certificate of Service did not include the complete name and /or mailing address of each opposing counsel and pro se party. Rule 1(a) and 6
9.  Your document exceeds page limits. Rules 24(f) , 30(e) and 31(c)
10.  Your request for court action must be submitted in motion form. Rule 41 (a)
11.  No extension of time for filing an interlocutory application will be granted . Rule 30 (g) . No extension of time will be granted for filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application.
12.  The type font was smaller than 10 characters per inch; type was not double-spaced or/and type was on both sides of the paper. Rules 1(c), 24(b), 37(a) and 41(b).
13.  Your motions were submitted in an improper form (joint, compound, or alternative motions in one document). Rule 41 (b)
14.  Margins were too small or paper size was incorrect. Rules 1(c), 24(c), 30(e), 31(c) and 41(b).
15.  **Your document was submitted for filing more than 30 days after the date of the order granting, denying or dismissing the application or the order granting, denying or dismissing the Motion for Reconsideration. Rules 30(j) and 31(j).**
16.  **Other: Notice of Appeals are filed in the lower court.**

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For Additional information, please go to the Court's website at: [www.gaappeals.us](http://www.gaappeals.us)

DEAR Clerk

RE: DOCKET # A150031 (RE DOCKET # A120048) 3-24-15  
RE: CASE 10-279 (BARTOW CO. SUP. COURT)

I am still requesting a review concerning an appeal from and denial of an out-of-time appeal. I or in which I contend the convictions of habitual violator (COUNT ONE driving w/o a license) and giving false information to law enforcement shall (COUNT FOUR) should be reversed as a matter of law or fact "Briefly"

COUNT ONE Habitual violator ALLEGED MURRAY DROVE w/o A license AFTER FAILING to OBTAIN A license.

MURRAY contends he had a "valid" habitual violator probationary license at that time of his arrest, which was established in his appeal docket # A12A 0270 as a valid license for driving. AND SINCE the STATE ALSO FAILED to PROVE that license was REVOKED PRIOR to his arrest of 2-16-08. Then the STATE FAILED to PROVE MURRAY DROVE without a valid license.

Further, it should be noted it was established that the officer did not actual witness MURRAY driving. OFFICER of COURSE "MAYBE" able (or did) establish the officer saw the vehicle in "motion" BUT the officer "COULD NOT" ACTUALLY describe MURRAY driving because he NOT ACTUALLY see him driving or rather the manner of driving, AND SINCE the officer "CAN NOT" describe MURRAY'S MANNER of driving. Then MURRAY was NOT "ACTUALLY DRIVING" to "VIOLATOR" AN ACTUAL DRIVING OFFENSE AND the PLACE BY the officer that MURRAY ALLEGEDLY WAS AT "A closed down GAS STATION" (which MURRAY had permission to be at) would NOT constitute a driving offense either whether MURRAY had a license or not. BECAUSE ONCE that place closed down (the GAS STATION) that place or the parking was NO LONGER open to the public rendering it "PRIVATE PROPERTY" (AND CONSEQUENTLY nothing prohibited overnight parking (NO SIGNS) AND SINCE it was rendered PRIVATE PROPERTY (AND MURRAY had permission to be there AND NOTHING was introduced to prove otherwise)

MURRAY SHOULD NOT BE (or ANYONE else) BE SUBJECT to laws concerning "PUBLIC DRIVING STATUTES. The point is that place was NOT PUBLIC (PROPERTY or rather) accessible. CONCERNING GA'S LAWS GOVERNING DRIVING (or OPERATION OF A "MOTORIZED VEHICLE" therefore MURRAY was or should NOT be subject to those laws. AN EXAMPLE: IS A kid who mows grass for his dad or neighbor (on a riding lawnmower) which would be a motorized vehicle (motorcycles) (4-wheelers) (etc etc). The point being the officer "CROSSED the LINE" AS FAR AS DRIVING OFFENSE'S GOES BECAUSE the PROPERTY MURRAY (the GAS STATION) WAS AT WAS NO LONGER OPEN to the PUBLIC, therefore PUBLIC accessibility governing traffic law NO LONGER APPLIES. BECAUSE if (the property) LEGALLY WAS PUBLICALLY closed, NO LONGER OPEN to the PUBLIC, therefore, the officer did NOT "LEGALLY" HAVE A RIGHT or ACTUALLY witness a crime in PROGRESS to INQUIRE INTO MURRAY'S license or QUESTIONING. SO whether

MURRAY WAS RUDE TO OFFICER (or lies or not), would be irrelevant at that point. AND there was evidence (TESTIMONY) BY TOLD different witnesses (PLUS MURRAY, show the jury) that MURRAY He had several dental issues. AT that time (AND then at trial) of his arrest, which is or was a TYPE JUSTIFICATION DEFENSE (along with justifiable reason for being at that location) which the PROSECUTION FAILED TO DISPROVE, which is "REQUIRED" when a DEFENDANT PRESENTS A "JUSTIFICATION" DEFENSE, which normally would be a reasonable "DEFENSE" for MURRAY being RUDE if he was (because we all know dental issues a pain-ful AND the OFFICER WAS ASKING MURRAY to ANSWER QUESTIONS) AND we all know it's hard to talk AND SPEAK PROPERLY with ongoing "DENTAL ISSUES" which the PROSECUTION ALLEGED WAS "SLURRED SPEECH" the PROSECUTION FAILED to ESTABLISH AS INTOXICATION MURRAY WAS QUOTED OF ALLEGATION of D.U.I. SO the STATE FAILED to PROVE its CASE.

therefore MURRAY'S ATTORNEY WAS IN ERROR FOR FAILING to FILE A ~~timely~~ NOTICE OF APPEAL AND MURRAY'S (CONVICTION) ~~is~~ REVERSED ON COUNT ONE AND COUNT FOUR.

COUNT ONE: Habitual violator (STATE FAILED to prove the alleged)  
COUNT FOUR: False info. (OFFICER <sup>(AND COUNSEL WAS INEFFECTIVE)</sup> ~~WAS NOT~~ <sup>STATE FAILED to discharge of his duties</sup> ~~in lawful discharge of his duties~~)  
Should be REVERSED AND ~~the~~ MURRAY'S REQUESTING AN ORDER to the TRIAL COURT of the such (SO AS MURRAY CAN APPEAL his convictions)

BASICALLY, I AM TRYING to GET this APPEAL STARTED AND DONE. Will YOU DO what I GET this stuff FILED ect. AND REQUEST for order the TRIAL COURT to SEND A COPY of the RECORD AND TRANSCRIPT TO MURRAY.

Will T. my

THE SITUATION MURRAY WAS IN AT LEAST the H.V. COURT (if not both) IS if MURRAY were in his own HOUSE OR HE WAS DRINKING A BEER or HAD NO LICENSE or BOTH in A CAR AND MOVED that CAR without leaving his own PROPERTY (which is PRIVATE PROPERTY) AND POLICE ATTEMPTED to QUESTION or CONDUCT INVESTIGATION MURRAY WOULD BE IN HIS RIGHT TO REFUSE as the OFFICER HAS NO RIGHT or AUTHORITY to CONDUCT such INVESTIGATION. IS the POINT, EVEN though this WAS ALLEGED occurred AT A SERVICE STATION which WAS OPEN to the PUBLIC if WAS CLOSED TO EVERYONE BUT MURRAY (HIMSELF) SINCE HE HAD PERMISSION to be there AND it WAS NO LONGER OPEN to the PUBLIC (REMOVING it PRIVATE PROPERTY)

IN THE COURT OF APPEALS  
STATE OF GEORGIA

William T. MURRAY

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STATE OF GEORGIA

CASE NUMBER  
2010 SCCR 0279  
(10-279)

DISCRETIONARY NUMBER  
DOCKET NUMBER  
A15D0131  
(RE-DOCKET NUMBER)  
A12D0048

RULE 40(B) MOTION

NOW COMES WILLIAM T. MURRAY REQUESTING A 40 (B) MOTION (EMERGENCY MOTION) TO A NOTICE OF APPEAL FROM A DENIAL OF A MOTION FOR AN OUT-OF-TIME APPEAL WHICH WAS DENIED OCT. 7, 2014. IN WHICH MURRAY ASCERTS HE HAS INEFFECTIVE ASST. OF COUNSEL (BECAUSE HIS COUNSEL FAILED TO FILE A TIMELY NOTICE OF APPEAL) FROM CONVICTIONS OF COUNT ONE HABITUAL VIOLATOR (DRIVER WHO LIVED) AND COUNT FOUR GIVING FALSE INFORMATION TO LAW ENFORCEMENT THAT HE SUSTAINED IN BARTOW CO. SUPERIOR COURT AUG. 22 2011. MURRAY CONTENDS AN ORDER FROM THE COURT OF APPEALS IS NECESSARY IN ORDERING THE RECORD (WHICH IS NON-EXISTENT SINCE NO HEARING WAS HELD CONCERNING HIS MOTION FOR AN OUT-OF-TIME APPEAL) AND TRANSCRIPT FROM TRIAL COURT TO ENSURE TIMELY DOCKETING OF HIS NOTICE OF APPEAL FROM THAT DENIAL OF HIS MOTION FOR AN OUT-OF-TIME APPEAL. WHICH HAS YET TO BE DOCKETED WITH THE COURT OF APPEALS. WHICH THAT NOTICE OF APPEAL HAVING BEEN FILED WITH THE TRIAL COURT OCT. 28, 2014 AND AN DISCRETIONARY APPLICATION BEEN "GRANTED" ON DEC. 4, 2014 (A15D0131)

MURRAY CONTENDS SINCE THE ACTUAL ALLEGED INCIDENT OCCURRED JULY 16, 2008 AND THE TRIAL DATE WAS AUG 22, 2011 AND THE NOTICE OF APPEAL TO MURRAY'S OUT-OF-TIME WHICH WAS DENIED OCT 7, 2014 IN WHICH HIS NOTICE OF APPEAL FILED OCT 28, 2014 AND THE "GRANT" OF HIS DISCRETIONARY APPEAL APPLICATION WAS DEC 4 2014, THE COURT OF APPEALS SHOULD "GRANT" HIS REQUEST FOR A 40(B) MOTION TO ENSURE TIMELY DOCKETING AND TO PREVENT ISSUES INVOLVED BECOMING MOOT AS OUTLINED IN MOTION 40(B) REQUEST. IF THE COURT OF APPEAL "GRANTS" HIS REQUEST FOR A MOTION

40(B). MURRAY CONTENDS MURRAY'S NOTICE OF APPEAL TO HIS DENIAL OF HIS MOTION FOR AN OUT-OF-TIME APPEAL WOULD YET TO BE "GRANTED" WHICH IF "GRANTED" WOULD BE THE ACTUAL BEGINNING OF MURRAY'S ACTUAL APPEAL CONCERNING THE ACTUAL CONVICTIONS HE'S TRYING TO APPEAL THEREBY MURRAY REQUEST HIS MOTION FOR A 40(B) MOTION BE "GRANTED" SINCE THE ISSUES OR ACTUAL INCIDENT IS SOME SIX (6) YEARS OLD FROM THIS DATE. TO PREVENT ANY MORE TIME DELAYS AND TO ENSURE A TIMELY DOCKETING AND TO PREVENT ISSUES BECOMING MOOT AS OUT-LINED IN 40(B) MOTION. THEREFORE MURRAY REQUEST YOU "GRANT" THIS MOTION AND DOCKET HIS APPEAL. SO HE MAY FILE HIS BRIEF.

### CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT A COPY OF THIS REQUEST OR MOTION 40(B) HAS BEEN SENT BY MAIL POSTAGE PAID TO SUZANNE BROOKESHIRE AT 135 W. CHEROKEE AVE SUIT 368 (DA. OFFICE) CARTERSVILLE, GA. 30120.

RESPECTFULLY SUBMITTED THIS 24 OF MARCH 2015

PRO-SE William T. Smith

SMITH STATE

9676 Hwy 301 North

P.O. Box 726

Glennville, GA 30427

### QUATING ESTELLE V PAROUS 429 U.S. 99, 106

THE COURT CONSTRUES THE FACTUAL ALLEGATION FAVORABLE TO A PRO-SE PLAINTIFF AND HOLDS PRO-SE PLEADINGS TO LESS STRINGENT STANDARDS THAN FORMAL PLEADING DRAFTED BY LAWYERS (ERICKSON V PAROUS 551 U.S. 89, 94) (ROWLAND V MARTIN 281 GA. 190, 187)

FORM 1 - NOTICE OF APPEAL (~~CIVIL~~ or CRIMINAL CASE)

FILED  
OCT 28 2014  
CLERK OF SUPERIOR COURT  
BARTOW CO., GA.

NOTICE OF APPEAL

IN THE Superior (SUPERIOR, ~~STATE ETC.~~) COURT  
OF BARTOW COUNTY

STATE OF GEORGIA

PLAINTIFF

CASE NUMBER

STATE OF GA.

10-279

vs.

DEFENDANT

William T. MURRAY

NOTICE OF APPEAL

Notice is given that William T. MURRAY (Plaintiff/Defendant) in the above matter hereby appeals to the Court of Appeals of Georgia from the judgment of the trial court entered on the 7<sup>th</sup> day of OCT, 2014. (Denial of an out-of-time Appeal)

The clerk shall Nothing omitted (omit nothing from the record on appeal/~~will omit from the record on appeal the following:~~ \_\_\_\_\_.)

A transcript of evidence and proceedings will (will/ ~~will not~~) be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this appeal because the issue involved is CRIMINAL and appeals of such cases are not reserved to the Supreme Court of Georgia pursuant to Article VI, Section VI, Paragraphs II and III of the Constitution of the State of Georgia.

CERTIFICATE OF SERVICE

I certify that I have this day served SERRANE BROOKSHIRE (opposing party ~~or attorney~~) with a copy of this Notice of Appeal by mail (hand delivery/ mailing a copy first class mail postage prepaid) to him/her at: D.A. OFFICE 135 W. Cherokee AVE (complete address of party served).

State 348  
This the 27<sup>th</sup> day of OCT, 2014.

William T. Murray (Sign your name.)  
William T. MURRAY  
G.P.C.D.R.  
#469640 E-56  
P.O. Box 3877  
Jackson, GA 30233

# Court of Appeals of the State of Georgia

ATLANTA, December 04, 2014

*The Court of Appeals hereby passes the following order:*

**A15D0131. WILLIAM T. MURRAY v. STATE.**

BARTOW CO. SUPERIOR COURT CASE # 10-279

William Murray seeks to appeal the trial court's order denying his motion for an out of time appeal. An order denying a motion for an out of time appeal, however, is a directly appealable order. See, e.g., *Lunsford v. State*, 237 Ga. App. 696 (515 SE2d 198) (1999).

When a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED. Murray shall have 10 days from the date of this order to file a notice of appeal with the trial court. If he has already filed a notice of appeal from the order at issue, he need not file a second notice. The trial court is instructed to include a copy of this order in the appellate record.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta, 12/04/2014*

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*Stephen E. Carlton*

, Clerk.

DISCRETIONARY APPLICATION  
FILED NOV. 5, 2014.

PAUPER'S AFFIDAVIT

William T. MURRAY

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STATE OF GEORGIA

CASE NUMBER  
2010 CESU 0279

DOCKET NUMBER  
A15D0131 (consort)

NOW COMES William T. MURRAY swearing THAT HE IS A PAUPER AND UNABLE TO PAY THE 80<sup>00</sup> Filing Fee. THEREFORE, HE REQUEST HE BE ALLOWED TO PROCEED WITH-  
OUT HAVING TO PAY 80<sup>00</sup> Filing Fee. IN THE COURT OF APPEALS.

RESPECTFULLY SUBMITTED THIS 24<sup>th</sup> DAY OF MARCH 2015

RESPECTFULLY SUBMITTED THIS 13 OF Jan. 2015 (NOTARIZED)

NOTARY:

PRO-SE W. J. Smith  
SMITH STATE  
9626 Hwy 301 North  
P.O. Box 926  
Glenville GA, 30427