

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

September 21, 2015

To: Mr. James D. Phillips, GDC131848 3-29T, Montgomery State Prison, Post Office Box 256, Mount Vernon, Georgia 30445

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. The mailing address for the Supreme Court of Georgia is: 244 Washington Street, S.W., Suite 572, Atlanta, Georgia 30334.
- 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.

Please Read

#  
Begin

Please All I'm Asking is for someone  
to read my complaint against Douglas Co.  
The Justice in Douglas County is not Blind  
It is who you know and How much money you  
have. Thomas Kegley has not right to say whether  
I do drugs or not. He said I weighed to much to  
do drugs, thats crazy, if your big you dont do drugs. I  
weigh 230lbs, I smoked 400<sup>cs</sup> to 500<sup>cs</sup> a day of Crack  
Heroin I need help not Prison

Douglas County needs to be looked  
at.

You can someone get very little time  
for hundreds of thousands of dollars (That) may Felony  
And someone with 2 1/2<sup>hrs</sup> shoplifting get 10 years.  
to do every day. And the person with ~~100~~ hundreds  
of thousands is not even in jail How?

You have to know someone or have money  
which I have neither.

Respectfully yours

James Darrell Phillips

Montgomery State Prison 3-29-T

P.O. Box 256.

Mount Vernon, Ga

30445

HELP

2016 SEP 17 PM 4:08

this, after I had been sentence to 10 years sent<sup>7</sup> for misdemeanor shoplifting, I ~~cannot~~ believe Mr. Hegley had a personal vendetta against me, if not why would he try to help me, instead of putting me back in prison, With him being an District Attorney he should see that prison is not helping. And who is he to determine if I was doing drugs. and how can he say that I was not doing drugs.

He even laughed in front of my attorney about my record easy convictions, But no help. Even on his Notice of State to Introduce Evidence in Aggravation of sentence and Invocation of Probationist Sentence Provisions and for Impeachment Purpose

① Henry Co. Theft by taking and Financial Transaction Card Theft. #86-CR0117) over 30yrs old. No drug help

② Clayton Co Burglary #11-1934-1 convicted 12-2-82 33 years old. No drug help

③ Douglas Co. Habitual Violator #89CR00905 convicted 9-1-89. no drug help.

④ Rockdale Co. Theft by Taking # ~~304~~ #96-CR-1590V convicted 3-14-97 = 18 years old. still no drug help

⑤ Douglas Co. Forgery 1<sup>st</sup> Theft by Taking = #01CR00464 convicted 3-6-2001

⑥ Cobb County VGCSA, #09-9-2216-18 convicted 5-18-09 Still no drug help with drug charge

7x8

Should be same, Should have run together.

Shoplifting Douglas Co. # 8-18-2011 #11CR000208<sup>24</sup> 11CR00229  
All happen at same time, same day. Still no drug Help

9-12-15

I need help, I'm a drug addict, I've been on drugs all my life, I've been in and out of prison all my life, All of my crimes were for drugs, All my crimes are some kind of theft for drugs, I've never had a violent crime, I've never hurt anyone, Except myself.

Now, I have never been offered any kind of drug rehab or any kind of help, it's always been prison, And as you can see it's not working, I need help. I'm serving a sentence now for shoplifting, Court #1 14CP00827 Court #2 14CP00855 both are misdemeanors, And on both final Dispositions it says Felony Probation not Felony sentence, and it's a Recidivist sentence, I did not commit a Felony, I committed Misdemeanors, And it says that you have to Blatantly commit a Felony to even have the Recidivist sentence come up. The District Attorney for Douglas County Thomas Hegley told my Parole officer Mr. Michael Pypel that he did not think I was doing drugs, because I was too big, And that I was going to prison. This was after Mr. Pypel had got approval from his supervisor and approval from the Parole Board in Atlanta, to have me put in the Potter's House. And Mr. Pypel told Mr. Thomas Hegley that he had a Drug screen that would prove I had done drugs, Mr. Hegley said he did not care that I was still going to prison, And to not believe that I had a problem with drugs, even when I had proof, is Wrong. Mr. Hegley told my Attorney at the time, he did not like me, My Attorney told my mother

My new charges from Douglas County are Misdemeanors  
 #14CR00855 I received 10yrs probation for a misdemeanor  
 shoplifting to run concurrent with #14CR00827 shoplifting  
 10 son 7 recidivist, But on my final Disposition it does not  
 say felony shoplifting anywhere, It say misdemeanor (<\$100-m  
 46 off or >100) No Felony. I have paper work from Sears  
 that I'm inclosing that tell how much was shoplifted  
 from there store in Douglas Co. And I've send a copy of  
 the Police Report from Douglasville Police Dept. Inclosed

And like I said in my letter that I believe that  
 Thomas Kegley had somekind of Hate, Grudge, Vendetta,  
 and that I believe it all to be personal, Although I  
 have never met the man. My Attorney kept telling me  
 it was my record, which I know is long, but I have  
 not killed or hurt anyone, I'm a Doug addict that needs help

I know my record is long, and that other people cases are  
 not alike, but David Eugene Thompson, #30092 GDC  
 Case # 11CR01224, has a record that is longer than  
~~my~~ mine. The reason I'm bringing this up with Mr Thompson  
 is his case is from the same County, Douglas Co.  
 Atleast 10 shoplifting charges in Douglas Co. Mr Thompson  
 gave me permission to use his name & # Case

July 2, 2015

James Phillips  
855 Tray Court  
Douglasville, GA 30435

Re: Our Client: Sears, Roebuck & Co.  
Our File No.: GA-8008884  
D/Incident: March 14, 2014  
Store No.: 1095

Dear Mr. Phillips:

As you are aware, this law office represents Sears, Roebuck & Co. in a statutory civil retail theft claim against you. This letter is in response to your recent correspondence. This letter contains a reduced offer to settle this civil matter for \$150 as more fully explained later in this letter. Below we have set forth the facts and statutory law upon which our client bases its claim for civil damages.

On March 14, 2014, you were stopped at Sears, Roebuck & Co. store number 1095 for allegedly shoplifting \$219.96 worth of merchandise.

The Official Code of Georgia, Section 51-10-6(a) states, "Any owner of personal property shall be authorized to bring a civil action to recover damages from any person who willfully damages the owner's personal property or who commits a theft as defined in Article 1 of Chapter 8 of Title 16 involving the owner's personal property. The owner of the personal property may recover as follows: (2) In any such action in which the value of the total claim, including exemplary damages, is less than \$5,000.00, the property owner may recover compensatory damages, as described in paragraph (1) of this subsection, and additionally may recover liquidated exemplary damages equal to \$150.00 or twice the amount of the entire loss sustained by the property owner as a result of the willful damage or theft offense, whichever is greater, and the cost of maintaining the civil action..." According to our "Of Counsel" attorney for the State of Georgia, Daniele C. Johnson, in order to establish statutory liquidated exemplary damages giving rise to a right to recovery, the retailer need only show an invasion of a legal right (i.e. that you took possession of store merchandise with

liquidated exemplary damages. These civil damages help to reimburse the retailer for the loss of the stolen item for any amount of time and cost of business damages. In any theft incident, the retailer suffers actual and business damages in the form of lost employee time, security costs for equipment and personnel, and loss of the item for the period of time that the stolen item was not available for sale to the public. Additionally, general loss control devices such as electronic article surveillance (EAS) and video camera systems can be amortized annually over their respective life expectancy and then divided by the average number of shoplift apprehensions to get a per stop cost. These could also be argued as additional actual damages.

She further advises that even if there is no physical damage to the property and the property is returned to the retailer in merchantable condition, the retailer has nonetheless suffered a legally compensable injury in the form of an invasion of a legal right to ownership of and control over the property, which was the object of the theft. This invasion of a legal right constitutes an injury.

Based upon the authority herein, our client was requesting \$325 in statutory liquidated exemplary damages as allowed under Section 51-10-6. In addition to the statutory liquidated exemplary damages, our client has requested \$175 for reasonable attorney's fees. It is our position that our client may request attorney's fees. Ms. Johnson advises that failure to allow such fees would be against public policy because it puts an unnecessary burden on the judicial system and discourages any attempt at settlement. This would force the plaintiff to immediately file suit after 30 days from receipt of the initial settlement offer in order to make enforcement of its rights economically feasible, particularly in cases where the amount in controversy is limited in comparison to the costs of litigation and retention of counsel as in the case of an action for minimum damages under Section 51-10-6. The courts would become overrun with small claims as settlement would not be an option until suit had been filed.

We feel this request for attorney fees will be recognized as reasonable where a defendant has been notified of a claim and the defendant invites litigation by its conduct or necessitates retention of counsel in preparation for litigation in order to produce settlement. We feel this request for attorney fees will be recognized as reasonable where a defendant has been notified of a claim and the defendant invites litigation by its conduct or necessitates retention of counsel in preparation for litigation in order to produce settlement. In our circumstance, our client notified you that it requested \$325 in statutory liquidated exemplary damages pursuant to Section 51-10-6 as a result of your conduct. On April 28,

# INCIDENT/INVESTIGATION REPORT

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Agency Name  
**Douglasville Police Department**

ORI  
**GA 0480100**

Case#  
**14-002773**

Date / Time Reported  
**03/14/2014 10:06 Fri**

Last Known Secure  
**03/02/2014 12:00 Sun**

At Found  
**03/14/2014 10:06 Fri**

Location of Incident  
**6580 Douglas Blvd, Douglasville GA 30135-**

Premise Type  
**Department / Discount**

Zone/Tract  
**3, 5**

#1 Crime Incident(s) (Com)  
**Theft By Shoplifting 2303**

Weapon / Tools  
**NONE**

Entry Exit Security

#2 Crime Incident ( )

Weapon / Tools

Entry Exit Security

#3 Crime Incident ( )

Weapon / Tools

Entry Exit Security

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# of Victims **1** Type: **BUSINESS** Injury: Domestic: **N**

Victim/Business Name (Last, First, Middle)  
**V1 SEARS**

Victim of Crime # **1** DOB **Age** Race Sex Relationship To Offender Resident Status Military Branch/Status

Home Address  
**6580 DOUGLAS BLVD, Douglasville, GA**

Home Phone  
**770-745-1994**

Employer Name/Address Business Phone Mobile Phone

VYR Make Model Style Color Lic/Lis VIN

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CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim)

Type: **INDIVIDUAL (NON LE)** Injury:

Code Name (Last, First, Middle) Victim of Crime # DOB Age Race Sex Relationship To Offender Resident Status Military Branch/Status

**RP WALTERS, RANDALL LEVAR**

Home Address  
**2499 Woodhill Ln East Point, GA 30344**

Home Phone  
**770-577-5211**

Employer Name/Address Business Phone Mobile Phone

**SEARS, 6580 Douglas Blvd (LOSS PREVENTION) 770-577-5211**

Type: Injury:

Code Name (Last, First, Middle) Victim of Crime # DOB Age Race Sex Relationship To Offender Resident Status Military Branch/Status

Home Address Home Phone

Employer Name/Address Business Phone Mobile Phone

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1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown  
("OJ" = Recovered for Other Jurisdiction)

VI #	Code	Status Frm/Tc	Value	OJ	QTY	Property Description	Make/Model	Serial Number
1	06	7.5	\$54.99		4	CLOTHES / FURS		
1	06	5	\$54.99		4	CLOTHES / FURS		
	06	7.5	\$25.00		1	CLOTHES / FURS	ION/Styling Iron	
	06	5	\$25.00		2	CLOTHES / FURS	MECHANIX/Material X4	
	06	7.5	\$49.99		3	CLOTHES / FURS	DAVID CAREY/Mustang	
	06	5	\$49.99		3	CLOTHES / FURS	DAVID CAREY/Mustang	
	06	5	\$25.00		1	CLOTHES / FURS	ION/Styling Iron	
	06	7.5	\$25.00		2	CLOTHES / FURS	MECHANIX/Material X4	
1	06	7	\$58.00		7	CLOTHES / FURS	JEANS	
1	06	7	\$36.00		6	CLOTHES / FURS	YD FLAT	
	02	1	\$0.00		1	1995 GRN. PDM8764 GA	FORD Aerostar	1FMCA11U7SZA14165

Officer/ID# **GRUBER, S. W. (4120)** Outstanding Stolen Val [Total Stolen]: \$94.00 [\$248.98], Tot Rec Val: \$154.98

Invest ID# **(0)** Supervisor **BENDER, C. E. (4066)**

Status Complainant Signature Case Status Cleared By Arrest **03/14/2014** Case Disposition: Page 1

# Incident Report Related Property List

Douglasville Police Department

OCA: 14-002773

*What was taken from SEARS 219.96*

1 Property Description <b>CLOTHES / FURS</b>		Make		Model		Caliber	
Color <b>Gray/Black</b>	Serial No.	Value <b>\$54.99</b>	Qty <b>4.000</b>	Unit	Jurisdiction <b>Locally</b>		
Status <b>Recovered</b>	Date <b>03/14/2014</b>	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) <b>Sears,</b>			DOB	Age	Race	Sex	

Notes

*Not sold at SEARS*

2 Property Description <b>CLOTHES / FURS</b>		Make <b>ION</b>		Model <b>STYLING IRON</b>		Caliber	
Color <b>Gray/Black</b>	Serial No.	Value <b>\$25.00</b>	Qty <b>1.000</b>	Unit	Jurisdiction <b>Locally</b>		
Status <b>Recovered</b>	Date <b>03/14/2014</b>	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) <b>* No name *</b>			DOB	Age	Race	Sex	

Notes

*Not sold at SEARS*

3 Property Description <b>CLOTHES / FURS</b>		Make <b>MECHANIX</b>		Model <b>MATERIAL X4</b>		Caliber	
Color <b>Tan/Black</b>	Serial No.	Value <b>\$25.00</b>	Qty <b>2.000</b>	Unit	Jurisdiction <b>Locally</b>		
Status <b>Recovered</b>	Date <b>03/14/2014</b>	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) <b>* No name *</b>			DOB	Age	Race	Sex	

Notes

*Not sold at SEARS.*

4 Property Description <b>CLOTHES / FURS</b>		Make <b>DAVID CAREY</b>		Model <b>MUSTANG</b>		Caliber	
Color <b>Blue</b>	Serial No.	Value <b>\$49.99</b>	Qty <b>3.000</b>	Unit	Jurisdiction <b>Locally</b>		
Status <b>Recovered</b>	Date <b>03/14/2014</b>	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) <b>* No name *</b>			DOB	Age	Race	Sex	

Notes

## Incident Report Related Property List

Douglasville Police Department

OCA: 14-002773

*Do not Even Sale At Sears*

<b>5</b>	Property Description <b>CLOTHES / FURS</b>	Make <b>JEANS</b>	Model	Caliber
	Color	Serial No.	Value <b>\$58.00</b>	Qty <b>7.000</b>
			Unit	Jurisdiction <b>Locally</b>
	Status <b>Stolen</b>	Date <b>03/02/2014</b>	NIC #	State #
			Local #	OAN
	Name (Last, First, Middle) <b>Sears,</b>		DOB	Age
			Race	Sex

Notes

**7 pairs of jeans total-\$348.00**

*Do not Even Sale at Sears*

<b>6</b>	Property Description <b>CLOTHES / FURS</b>	Make <b>YD FLAT</b>	Model	Caliber
	Color	Serial No.	Value <b>\$36.00</b>	Qty <b>6.000</b>
			Unit	Jurisdiction <b>Locally</b>
	Status <b>Stolen</b>	Date <b>03/12/2014</b>	NIC #	State #
			Local #	OAN
	Name (Last, First, Middle) <b>Sears,</b>		DOB	Age
			Race	Sex

Notes

**6 shirts total-\$216.00**