

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

April 29, 2015

To: Mr. Relonzo Phillips, GDCX0151569, DeKalb County Jail, 4425 Memorial Drive,  
Decatur, Georgia 30032

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 \_\_\_\_\_ 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.

TO WHOM THIS MAY CONCERN,

THE APPELLANT REQUESTS THAT UPON FILING THIS NOTICE OF APPEAL, THAT A COPY OF THE NOTICE OF APPEAL BE RETURNED TO THE APPELLANT WITH THE CLERK OF COURT'S STAMP OF RECEIPT. THANKS IN ADVANCE.

Rulongo Phelps  
Appellant, Pro Se

RECEIVED IN OFFICE  
2015 APR 28 PM 2:48  
CLERK OF SUPERIOR COURT

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

RECEIVED IN OFFICE  
2015 APR 28 PM 2:48

STATE OF GEORGIA

v

RELONZO PHILLIPS

CASE NO: 14W-016747  
(14C-76630)

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HONORABLE JUDGE GORDON

NOTIFICATION OF MOTION TO APPEAL THE DENIAL OF  
MOTION TO DISMISS ANY WARRANT OR FORMAL  
ACCUSATION FOR VIOLATION OF THE DEFENDANT'S  
CONSTITUTIONAL RIGHT TO SPEEDY TRIAL

STATE COURT OF DEKALB COUNTY, GA

2015 MAR -6 PM 2:26

BY: \_\_\_\_\_

NOW COMES THE DEFENDANT, PRO SE, WHO MOVES THE COURT TO ALLOW THE DEFENDANT TO APPEAL THE DENIAL OF MOTION TO DISMISS ANY WARRANT OR FORMAL ACCUSATION FOR VIOLATION OF THE DEFENDANT'S CONSTITUTIONAL RIGHT TO SPEEDY TRIAL PENDING THE COURT'S ORDER GRANTING THE DEFENDANT, PRO SE, VISITATION PRIVILEGES TO THE LAW LIBRARY LOCATED AT THE DEKALB COUNTY JAIL.

WHEREFORE THE DEFENDANT, PRO SE, REQUESTS THAT THIS COURT CONDUCT A HEARING SO THAT THE DEFENDANT, PRO SE, MAY DISCLOSE REQUESTED DOCUMENTS MADE BY THE HONORABLE JUDGE GORDON ON FEBRUARY 13th, 2015.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE SERVED A COPY OF THE WITHIN  
AND FOREGOING MOTION UPON THE CLERK OF COURT OF THE STATE COURT OF  
DEKALB COUNTY VIA U.S. MAIL AND REQUESTS THAT COPIES BE MADE AND SERVED  
UPON THE SOLICITOR'S OFFICE.

THIS THE 26th DAY OF FEBRUARY, 2015.

Relonzo Phillips

Relonzo Phillips

DEFENDANT, PRO SE

**COPY**

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

THE STATE OF GEORGIA

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CASE # 14C76630

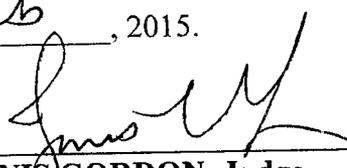
VS.

RELONZO PHILLIPS

**ORDER DENYING DEFENDANT'S MOTION TO DISMISS FOR VIOLATION OF  
CONSTITUTIONAL SPEEDY TRIAL RIGHTS**

On February 24, 2015, this Court held a hearing on Defendant's motion to dismiss for violation of his right to a speedy trial. After a hearing on the matter, this Court found that his right has not been violated due to the right not yet having attached. Therefore, the motion is hereby denied.

SO ORDERED, this 25<sup>th</sup> day of Feb, 2015.

  
\_\_\_\_\_  
JANIS GORDON, Judge  
State Court of DeKalb County

CC. Prepared by: Ashley O'Neal  
Assistant Solicitor-General  
Bar Number: 833153  
DeKalb County Office of the Solicitor-General  
556 N. McDonough St. Suite 500  
Decatur, GA 30030  
(P) 404-371-2201  
(F) 404-371-7048

cc: Relonzo Phillips

IN THE COURT OF APPEALS OF GEORGIA  
STATE OF GEORGIA

RELDONZO PHILLIPS,

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CASE NO. 14W-016747

APPELLANT

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14C-76630

v

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STATE OF GEORGIA

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NOTICE OF APPEAL

THE APPELLANT, PRO SE, MOVES THIS COURT TO ALLOW A DIRECT APPEAL FROM AN ORDER OF DENIAL RENDERED BY THE STATE COURT OF DEKALB COUNTY GEORGIA OF A MOTION TO DISMISS FOR VIOLATION OF THE APPELLANT'S, PRO SE, CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. IF THE TIME ALLOTTED FOR THIS APPEAL HAS EXPIRED, THE APPELLANT, PRO SE, MOVES THE COURT FOR AN EXTENTION.

STATEMENT OF FACTS

ON OR ABOUT OCTOBER 14, 2014, THE APPELLANT IN THE ABOVE REFERENCED MATTER WAS ARRESTED FOR MISDEMEANOR STALKING. FOLLOWING THE APPELLANT'S ARREST, A BOND WAS SET AT A PRELIMINARY HEARING HELD ON OCTOBER 15, 2014 FOR THE AMOUNT OF \$ 5,000 CASH/SURETY; HOWEVER, THE APPELLANT RECEIVED BOND ON THE FACT THAT A PAROLE HOLD WAS ISSUED FOR HIM AND IT WAS APPARENT THAT DESPITE ANY BOND GRANTED, THE APPELLANT WOULD REMAIN INCARCERATED AT THE DEKALB COUNTY JAIL. THE APPELLANT UNUNDERSTANDING HIS RESPONSIBILITIES TO THE PAROLE BOARD. EXECUTED A

WAIVER, NOT ADMITTING GUILT WHICH ALLOWED THE DEFENDANT / APPELLANT TO BE RELEASED WITHIN (6) SIX MONTHS OF EXECUTING SAID WAIVER.

THE APPELLANT WAS APPOINTED COUNSEL BETHANY LINDSTROM TO REPRESENT HIM ON THE CASE. DURING THE PROCESS OF (4) FOUR BOND HEARINGS DATED OCTOBER 24, 31, NOVEMBER 25, AND DECEMBER 23RD OF 2014, THE APPELLANT VERBALLY REQUESTED THAT COUNSEL ASSERT HIS CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. AT NO TIME DID COUNSEL LINDSTROM DO SO, SHE ONLY STATED THAT THE APPELLANT COULD NOT REQUEST A TRIAL BECAUSE "THERE WAS NO ACCUSATION IN THE CASE." DURING THE FIRST WEEK OF JANUARY 2015, THE APPELLANT RECEIVED CORRESPONDANCE FROM COUNSEL LINDSTROM VIA U.S. MAIL STATING THAT SHE WAS TRANSFERRING TO ANOTHER COURTROOM AND THAT COUNSEL NATALIE STEPHENSON WOULD THEN BE REPRESENTING THE DEFENDANT / APPELLANT AS COUNSEL. THIS CORRESPONDANCE WAS DATED DECEMBER 29, 2014. ON DECEMBER 31, 2014 THE DEKALB COUNTY SOLICITOR'S OFFICE TRANSFERRED CASE NO. 14W-016747 / 14C-76630 (FOR WHICH THE STATE NEVER ACCUSED) TO THE DEKALB COUNTY DISTRICT ATTORNEY'S OFFICE FOR POSSIBLE FELONY PROSECUTION UNSUPPORTED BY THE FAMILY VIOLENCE ACT OR O.C.G.A. 16-5-90. FOLLOWING (1) ONE COURT HEARING HELD JANUARY 9, 2015 ("JAIL COURT PLEAS"), FOR WHICH THE SOLICITOR'S OFFICE DID NOT INTEND FOR THE APPELLANT TO ENTER A PLEA, THE APPELLANT RELIEVED COUNSEL STEPHENSON OF REPRESENTATION AND PROCEEDED HENSEFORTH PRO SE ON FEBRUARY 13, 2015. AFTER BEING ALLOWED TO PROCEED PRO SE, THE APPELLANT REQUESTED THAT AN ORDER BE GRANTED TO HIM WHICH WOULD ALLOW THE APPELLANT VISITATION TO THE LAW LIBRARY TO PREPARE A DEFENSE FOR WHICH THE COURT DENIED.

ON FEBRUARY 13, 2015, THE APPELLANT ASSERTED HIS CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL AT THE EARLIEST POSSIBLE TIME BY FILING HIS MOTION TO DISMISS ANY WARRANT OR FORMAL ACCUSATION FOR THE APPELLANT FOR VIOLATION OF THE APPELLANT'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. ON FEBRUARY 24, 2015, THE STATE COURT OF DEKALB COUNTY GEORGIA HELD A HEARING ON THE APPELLANT'S MOTION TO DISMISS WHEREAS THE STATE NEVER SUBMITTED A REBUTTAL BRIEF AND ARGUED THAT "THE APPELLANT

FILED, THE WRONG MOTION AND THAT THE APPELLANT'S RIGHT TO A SPEEDY TRIAL HAD NOT BEEN VIOLATED BECAUSE THE APPELLANT'S RIGHT HAD NOT YET ATTACHED." THE COURT CONCURRED WITH THE STATE'S ARGUMENT WHEREFORE IT DENIED THE APPELLANT'S PRO SE MOTION TO DISMISS.

## LEGAL STANDARD

PRE-TRIAL ORDERS DENYING A CONSTITUTIONAL SPEEDY TRIAL CLAIM ARE DIRECTLY APPEALABLE AND ARE NOT SUBJECT TO STATUTORY INTERLOCUTORY APPEAL REQUIREMENTS. U.S.C.A. CONST. AMEND. 6; O.C.G.A. 5-6-34 (B)  
CALLAWAY V STATE, 275 GA. 332, 567 S.E. 2d 13 (2002)

IN REVIEWING A CONSTITUTIONAL SPEEDY TRIAL CLAIM, THE COURT MUST DETERMINE WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE MOTION TO DISMISS. BURNS V STATE, 265 GA. 763, 764, 462 S.E. 2d 622 (1995);

THE CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL ATTACHES ON THE DATE OF ARREST OR WHEN FORMAL CHARGES ARE INITIATED, WHICHEVER FIRST OCCURS. STATE V WHITE, 282 GA. 859, 861 (2), 655 S.E. 2d 575 (2008)

ALTHOUGH BEING AN "ACCUSED" IS NECESSARY TO TRIGGER THE SPEEDY TRIAL CLAUSE PROTECTION, IT IS NOT SUFFICIENT TO DO SO. THE TOUCHSTONE OF THE SPEEDY TRIAL, AFTER ALL, IS THE SUBSTANTIAL DEPRIVATION OF LIBERTY THAT TYPICALLY ACCOMPANIES AN "ACCUSATION", NOT THE ACCUSATION ITSELF. THAT EXPLAINS WHY A PERSON WHO HAS BEEN ARRESTED AND NOT ACCUSED IS ENTITLED TO PROTECTION OF THE SPEEDY TRIAL CLAUSE EVEN THOUGH TECHNICALLY HE HAS NOT BEEN "ACCUSED AT ALL". DILLINGHAM V UNITED STATES. 423 U.S. 64, 64-65, 46 S.Ct. 303-304, 46 L.Ed. 2d (1975)

IN REVIEWING A SPEEDY TRIAL CLAIM, THE COURT MUST REVIEW THE FOUR CONSIDERATIONS SET FORTH BY THE UNITED STATES SUPREME COURT

IN BARKER V WINGO. 407 U.S. 514, 530 (1972)

## LEGAL ARGUMENT

THE APPELLANT WAS ARRESTED ON OCTOBER 14, 2014 FOR MISDEMEANOR STALKING. AT NO TIME DID THE DEKALB COUNTY SOLICITOR'S OFFICE BRING FORTH A FORMAL ACCUSATION NOR ANY INDICTMENT IN THE CASE AFTER THE STATE DECIDED TO TRANSFER THE CASE TO THE DEKALB COUNTY DISTRICT ATTORNEY'S OFFICE FOR FELONY PROSECUTION. AS OF MARCH 12, 2015, (5) FIVE MONTHS OF INCARCERATION, NO PROSECUTION HAS COMMENCED FORWARD. IN STATING THAT THE APPELLANT'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL HAD NOT YET ATTACHED, THE STATE COURT OF DEKALB COUNTY RENDERED AN ERRONEOUS RULING IN DENYING THE APPELLANT'S PRO SE, MOTION TO DISMISS FOR VIOLATION OF THE APPELLANT'S CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. THIS JUDGEMENT SHOULD BE REVERSED. WIMBERLY V STATE, 277 GA. 598, 599 (1), 592 S.E. 2d 848 (2004); HASSEL V STATE, 284 GA. 861 (2009) CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL ATTACHES ON THE DATE OF ARREST OR WHEN FORMAL CHARGES ARE INITIATED, WHICHEVER FIRST OCCURS. U.S. CONST. AMENDS. VI, XIV; ART. 1, SEC. 1, PAR. XI OF THE GEORGIA CONSTITUTION OF 1982

## LEGAL ANALYSIS

THE BALANCE OF THE FOREGOING FACTORS WEIGH IN FAVOR OF THE APPELLANT. THROUGH NO FAULT OF HIS OWN, THE CASE HAS NEVER BEEN ACCUSED OR INDICTED. THE APPELLANT HAS BEEN DENIED THE FEDERAL AND STATE CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL. THEREFORE, THE APPELLANT MOVES THE COURT TO REVERSE THE STATE COURT OF DEKALB COUNTY'S ORDER DENYING THE APPELLANT'S PRO SE MOTION TO DISMISS WITH DIRECTION TO DISMISS AND/OR ACQUIT. U.S. CONST. AMENDS. XIV VI: ART. 1. SEC. 1 PAR. XI

OF THE GEORGIA CONSTITUTION OF 1983.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT I HAVE SERVED A COPY OF THE WITHIN  
AND FOREGOING NOTICE OF APPEAL UPON THE CLERK OF COURT OF THE COURT OF  
APPEALS OF GEORGIA VIA U.S. MAIL.

THIS THE 27th DAY OF MARCH, 2015.

Relonzo Phillips - X015156A

Relonzo Phillips

Appellant, Pro SE