

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

July 7, 2015

To: Mr. Deivi Polanco, GDC1001027990, Calhoun State Prison Post Office Box 249, Morgan, Georgia 39866

Docket Number: Style: Deivi Polanco v. Patricia Rodriguez

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:**

For Additional information, please go to the Court's website at: www.gaappeals.us

STATE OF GEORGIA

PATRICIA RODRIGUEZ
PLAINTIFF,

Vs.
DEIVI POLANCO
DEFENDANT.

RECEIVED IN OFFICE CIVIL ACTION

2015 JUL -2 PM 3:30

FILE NO-12-A-04012-9

CLERK OF SUPERIOR COURT
COURT OF APPEALS OF GA. WINNETT COUNTY SUPERIOR COURT

FILED IN OFFICE

JUN 30 2015

COURT CLERK
CLERK COURT OF APPEALS OF GA.

NOTICE OF APPEAL,
PETITION/APPLICATION

COMES NOW, DEIVI POLANCO, DEFENDANT (PRO-SE) AND HEREBY GIVES NOTICE OF HIS APPEAL TO THE GEORGIA COURT OF APPEALS OF THE DECISION IN THE INSTANT CASE WHICH DECISION WAS FILED ON AUGUST 27th, 2013, WITH THE WINNETT COUNTY SUPERIOR COURT. THE COURT ENTERED A FINAL ORDER AFTER A THREE DAYS BENCH TRIAL BEFORE YOUR HONOR JUDGE TOM DAVIS, GRANTING THE PLAINTIFF THE DIVORCE AND SOLE CUSTODY OF THE MINOR CHILDREN OF THE PLAINTIFF AND DEFENDANT: DEIVI MAURIS - POLANCO JR. (FIVE YEARS OLD, SON) AND SIVESTRE CAMILA - POLANCO (FOUR YEARS OLD, DAUGHTER) THE SAME DAY THIS FINAL ORDER WAS FILED THE DEFENDANT EXPRESSED HIS INTENTION OF APPEAL IN OPEN COURT JUST FOR THE RECORD AND ON OR BEFORE 30 DAYS DEFENDANT FILED/MAILED A NOTICE OF APPEAL CONSEQUENTLY NO RECEIVING A REPLY FROM THE COURT THE DEFENDANT FILED/MAILED ANOTHER NOTICE OF APPEAL ON DECEMBER 23th, 2013, THIS ONE WAS RESPONDED BY THE CLERK OF THE COURT WITH A NOTICE OF THE COST TO TRANSMIT RECORDS OF THE COURT AND A POSSIBLE NEW TRIAL FEES. THE DEFENDANT DID REPLY, THE EXPLANATION OF THIS WAS THAT THE DEFENDANT WAS A INDEMENT (A GEORGIA STATE PRISONER) AND REQUESTED THESE FEES TO BE WAIVE DUE TO HIS INDEMENT STATUS. A HEARING WAS SCHEDULED ON NOVEMBER 3rd, 2014, BEFORE YOUR HONOR JUDGE TOM DAVIS TO DISCUSS WHY FEES ASSOCIATED WITH THE APPEAL HAD NO BEEN PAID UP UNTILL THAT POINT, DEFENDANT EXPLAINED HIS INDEMENT TO JUDGE TOM DAVIS (WHICH WAS ALREADY AWARE OF THE DEFENDANT INDEMENT) AND THAT DEFENDANT WAS UNDER THE STATE CUSTODY) PLUS ADDITIONAL TO THIS, THE JUDGE QUESTIONED DEFENDANT WHY APPEAL WAS LATE ->

THE DEFENDANT'S POSITION IS THAT TO FILE THE APPEAL TWO
BECAUSE THE CLERK DISCREPANCY MORE LIKE WAS THE
CAUSE/REASON APPEAL WAS ENTERED LATE ON RECORDS. PLUS
DEFENDANT DIDN'T HAVE PROOF THAT DAY OF THE HEARING
TO PROVE HE MAILED HIS NOTICE ON TIME. AS RESULT
OF THIS JUDGE TOM DAVIS DISMISSED THE APPEAL ON THE
GROUND OF FAILING TO FILED APPEAL ON TIME AND
FEES NO PAID, THIS WAS FILED ON RECORDS NOVEMBER 6th, 2014.
AFTER SEVERAL INTENT IN GETTING A NEW HEARING (RE-CONSIDER
ATION) WITH NO SUCCESS DEFENDANT MOVES TO THE NEXT COURT
STAGE, CLAIMING THESE GROUNDS IN WHICH DEFENDANT
CONSIDER HIS RIGHTS WERE VIOLATED. ALSO HERE ARE SOME CASES
AND STATUTES SUPPORTING THE DEFENDANT POSITION:

I) U.S. CONSTITUTIONAL RIGHT (SIXTH AND FOURTEENTH AMENDMENT)
RIGHT TO A FAIR TRIAL WITH FREELY ACCESS TO DOCUMENTS AND
RIGHT TO BE PRESENT ON ALL HEARINGS OR LITIGATION (WHICH
WAS NO THE CASE DURING THE WHOLE PROCESS OF THE CASE).

II) 28 U.S.C. § 1915(a) WHICH EXPLAIN ALL INDIGENT PERSON IS
ENTITLED TO RECEIVE FEE'S WAIVING, ESPECIALLY WHEN THAT
PERSON MEETS THE INDIGENCY CRITERIA.

III) GEORGIA CODE O.C.G.A. § 9-15-2(a)(1) WAIVE OF FEES IS
ALLOWED TO ANY INDIGENT CITIZEN / RESIDENT OF THE STATE.

IV) O.C.G.A. § 9-15-2(a)(2) EVEN THOUGH A WRITTEN REQUEST
IS NO MADE; A ORAL HEARING REQUEST IS MORE THAN
SUFFICIENT OR CAN REPLACE THE WRITTEN REQUEST (AND I
CLEARLY MADE MY REQUEST IN OPEN COURT NOVEMBER 3rd, 2014)

V) 19-5-4 NO DIVORCE AND ITS CONSEQUENT SHOULD BE GRANTED
IN ADULTERY OR SAME LIKE CONDUCT OF THE PARTIES INVOLVED.
REF. CASE: COHEN VS. COHEN 196 GA. 562, 27 S.E.2nd 28, 1943 GALEXIS 384 (GA191)

VI) 19-5-4 "GRANDPARENT RIGHT" WAS REQUESTED BY THE
DEFENDANT AND GRANDMOTHER PRESENT AT ALL HEARINGS DURING
THE PROGRESS OF THE CASE AND WAS NO EVEN CONSIDER BY THE COURT,
REF. CASE FRANCIS VS. FRANCIS, 279 GA. 248, 248-249 (611 S.E.2nd 45) (2005)

BASED ON THESE FACTS MENTIONED ABOVE THE DEFENDANT BELIEVES
THE COURT AND YOUR HONOR JUDGE TOM DAVIS DIVORCE
ORDER DECISION / FINAL ORDER AND APPEAL DISMISS ARE
CONTRARY TO THE LAW. IT'S CONTRARY TO THE PRINCIPLES
OF JUSTICE AND EQUITY. DEFENDANT PRAYS FOR A MORE FAIR
ORDERABLE DECISION FOR BOTH PARTIES. JUST TO MENTION:
FIRST; A JOINTLY CUSTODY FOR THE MINOR CHILDREN OF
THE PARTIES INVOLVED, DEIVI MAURIS POIANEO JR. AND
AND SECONDLY; A BETTE

SPLIT OF THE DEFENDANT AND PLAINTIFF DUTIES AND RESPONSIBILITIES, FOR EXAMPLE THE DEBTS INHERIT FROM THE MARRIAGE OF BOTH, THIS DEBT MAY EXCEED TEN THOUSAND DOLLARS, AND WAS LEFT TO BE PAID BY THE DEFENDANT ONLY

CONCLUDING, THE DEFENDANT HEREBY GIVES NOTICE OF HIS APPEAL TO THE SUPREME COURT OF GEORGIA / - GEORGIA COURT OF APPEALS OF THE DECISION MADE BY JUDGE TOM DAVIS AND THE COURT AND PRAYS FOR A BETTER AND MORE FAIR JUDGMENT. THE CLERK OF THE SUPERIOR COURT OF GWINNETT COUNTY WILL PLEASE INCLUDE THE ENTIRE RECORD ON APPEAL INCLUDING TRANSCRIPTS, ALL DOCUMENTARY EVIDENCE ADMITTED TO THE COURT AS ALL RELEVANT PIECES OF THIS CASE SUBMITTED TO THE COURT, NOTHING SHOULD BE OMITTED FROM THE RECORD ON APPEAL. DEFENDANT RESERVES THE RIGHT OF ANY ITEM NOT MENTIONED ON THIS DOCUMENT AND DON'T WAIVE HIS RIGHT OF REQUESTING THESE AT LATER DATE OR IN THE FUTURE. JURISDICTION OF THIS APPEAL IS VESTED IN THE SUPREME COURT OF GEORGIA PURSUANT TO THE GEORGIA CONSTITUTION 19-5-4 (NEW TRIAL) WHEREFORE, THE DEFENDANT PRAYS THAT THE COURT GRANT DEFENDANT RELIEF TO WHICH HE MAY BE ENTITLED IN THIS PROCEEDING. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS MADE IN THIS APPLICATION / NOTICE OF APPEAL ARE TRUE AND CORRECT.

RESPECTFULLY SUBMITTED,

DEIVI POLANCO
DEFENDANT (PRO-SE)

CC:
KOSKY, VANESSA (PLAINTIFF'S ATTORNEY)
CLERK OF THE GWINNETT COUNTY SUPERIOR COURT.

JUN 30 2015

COURT CLERK
CLERK COURT OF APPEALS OF GA

PATRICIA RODRIGUEZ

Plaintiff

1001027990, GDC#

Inmate Number

Civil Action No. 12-A-04012-9

DEIVI MAURIS POLANCO

vs.

Nature of Action
DIVORCE

@ CALHOUN STATE PRISON

CHILD CUSTODY

Defendant(s)

REQUEST TO PROCEED IN FORMA PAUPERIS

I, DEIVI POLANCO, ^{DEFENDANT} depose and say that I am the ~~DE~~ in the above entitled case; that in support of my request to proceed without being required to prepay fees, costs or give security thereof. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress. I further swear that the responses which I have made to questions and instructions below are true.

1. List any and all aliases by which you are known: NONE

2. Are you presently employed? Yes No

If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer: _____

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: N/A

3. Have you received within the past twelve months any money from any of the following sources?

- Business, profession or form of self-employment? Yes No
- Pensions, annuities or life insurance payments? Yes No
- Rent payments, interest or dividends? Yes No
- Gifts or inheritances? Yes No
- Any other sources? Yes No

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If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months: _____

4. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts) Yes No

If the answer is "Yes", state the total value of the items owned: _____

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is "Yes", describe the property and state its approximate value: _____

6. List the persons who are dependent upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support: _____

NONE

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

- a. A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question.
- b. A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. O.C.G.A. §16-10-70.

I, DEIVI POLANCO, do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauperis status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

Deivi Polanco

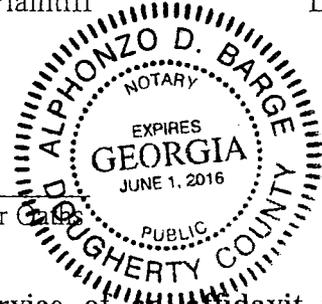
5/21/15

Signature of Plaintiff

Date

Sworn to and subscribed before me this 21 day of May, 2015.

Alfonzo D. Barge
Notary Public or Other Person Authorized to Administer Oaths



Please note that under O.C.G.A. §42-12-5 service of an affidavit in forma pauperis, including all attachments, shall be made upon the court and all named defendants. Failure by the prisoner to comply with this code section shall result in dismissal without prejudice of the prisoner's action.

THIS FORM IS TO BE COMPLETED ONLY BY AN AUTHORIZED INDIVIDUAL AT THE INSTITUTION WHERE THE INMATE PLAINTIFF IS PRESENTLY INCARCERATED, OR HIS / HER DESIGNEE.

CERTIFICATION

I hereby certify that the ^{DEFENDANT} herein, Polanco, Deivi ^{GDC#} 1001027990,
has an average monthly balance for the last twelve (12) months of \$ 0 on
account at the Calhoun State Prison
institution where confined. (If not
confined for a full twelve (12) months, specify the number of months confined. Then compute
average monthly balance on that number of months.)

I further certify that Plaintiff likewise has the following securities according to the records of
said None
institution: Calhoun State Prison

[Signature]
Authorized Officer of Institution

05-19-15
Date

**CALHOUN STATE PRISON
P.O. BOX 249
MORGAN, GA 39866**

NOTE: Please attach a copy of the prisoner's inmate
account of the last 12 months or the period of
incarceration, whichever is less.