

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

December 30, 2015

To: Mr. Shavon Jabbar Prescott, Fulton County Jail, 901 Rice Street, N.W., Atlanta, Georgia  
30318

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 the name of Shavon Jabbar Prescott.**
- 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. We do not have a file to append your copy.
- 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.

COURT OF APPEALS OF GEORGIA  
DIVISION No. 1.

RECEIVED IN OFFICE  
2016 DEC 29 PM 2:49  
LEARN COURT ADMINISTRATION  
COURT OF APPEALS DIVISION

SHAVON JABBAR PRESCOTT

APPEAL

v.

The STATE

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MOTION TO DISMISS THE INDICTMENT FOR WANT OF PROSECUTION AND TO CALL UPON THE COURT TO APPLY CODE S 27-2001 AND DENY THE STATE A CONTINUANCE PURSUANT TO CODE SS 27-2001, 27-2002, CODE \*27 Ann. SS 2-105, 1-806, 1-815, AND TO THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION, AND O.C.G.A. § 17-7-170.

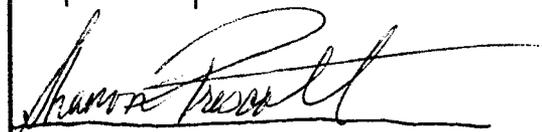
COMES NOW, Shavon Jabbar Prescott, and respectfully moves this Court to dismiss the indictment case number 13sc122390.

1. The State's failure to try the Defendant (Appellant) within a reasonable period of time violates the Defendant's right to due process and right to speedy trial under both the Georgia and the United States Constitutions. *The State v. R.L. King et al.*, 137 Ga. App. 26, 222 S.E. 2d 859 (1975).

2. The Court of Appeals, speaking through Judge Hall, addressed itself to the question of whether a written demand for trial is the only remedy for a defendant charged with crime to use in order to seek his release because he has not been given a speedy trial guaranteed by the Federal and State Constitutions Code \*27 Ann. ss 2-105, 1-806, 1-815. At page 416, 148 S.E. 2d at page

194 this court holds: 'The right of a defendant in Georgia to a speedy trial in a capital case is recognized and implemented by the statute providing for a demand for trial and for an acquittal if the defendant is not tried within the time provided after the demand. Code Ann. ss 27-1901.1, 27-1901.2, supra. The statute makes the demand for trial one device, but not the only one, by which the defendant can assert his right to a speedy trial. When the defendant does not demand trial in accordance with the statute, or the trial judge does not grant him special permission to file a demand after the time for filing as a matter of right has passed, the defendant is not without remedy. The right to a speedy trial has been recognized by other statutory provisions for a hundred years. Code ss 27-2001, 27-2002. If the defendant believes the State has delayed beyond a reasonable time in bringing him to trial, he can make a motion that he be tried, or that the indictment be dismissed for want of prosecution, and call upon the court to apply Code s 27-2001 and deny the State a continuance unless it shows sufficient cause for it.' Blevins v. State, 113 Ga.App. 413, 148 S.E.2d 192 and at page 416. Unlike the cases cited, Defendant has asserted a right to a speedy trial on accusation No. 13SC12239. Defendant has been severely prejudiced and has been incarcerated since the 19<sup>th</sup> day of June, 2013.

WHEREFORE, defendant prays that a hearing be scheduled on this motion, that the same be sustained on each and every ground and that the Indictment be dismissed and quashed. Respectfully submitted,



SHAVON JABBAR PRESCOTT

This 20<sup>th</sup> day of December, 2015.

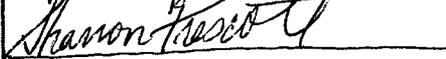
## CERTIFICATE OF SERVICE

I, Shavon Jabbar Prescott, hereby certify that the following document is being forwarded to the Clerks Office of the Georgia Court of Appeals, this 20<sup>th</sup> day of December, 2015.

Case No. 13sc122390.

Document(s): Appeal and Motion to dismiss the indictment for want of prosecution and to call upon the court to apply code s 27-2001 and deny the State a continuance pursuant to code ss 27-2001, 27-2002. Code \*27 Ann. ss 2-105, 1-806, 1-815, and to the Sixth Amendment of the United States Constitution, and O.C.G.A. §17-7-1.

Respectfully submitted,



SHAVON JABBAR PRESCOTT

To: Clerk's Office  
Court of Appeals of Georgia  
47 Trinity Avenue, S.W.  
Suite 501  
Atlanta, Georgia 30334

From: Shavon Jabbar Prescott  
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