

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

April 20, 2015

To: Mr. Edward Rust, GDC1110630, Wheeler Correctional Facility, Post Office Box 466, Alamo, Georgia 30411

Docket Number: Style: Edward S. Rust v. The State

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

In The Court of Appeals
State of Georgia

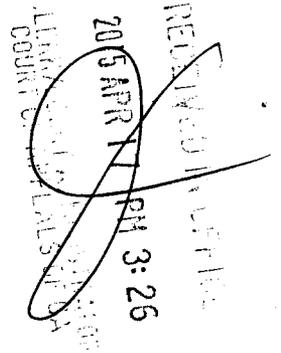
Edward S. Rust,
Appellant,

v.

State of Georgia,
Appellee.

From Bibb County
Case No. 02CR54206

Docket No. 02-CR-54206



Application For Discretionary Appeal

Statement of Jurisdiction

The Georgia Court of Appeals has jurisdiction of the Discretionary Appeal under O.C.G.A. § 42-12-8 and 5-6-35 because this case does not come under the exclusive jurisdiction of the Supreme Court of Georgia.

In The Court Below

On February 25, 2014, Edward Rust filed a Motion To vacate A void conviction And sentence in the Bibb County Superior Court, Case No. 02-CR-54206, seeking to vacate the conviction and sentence imposed for the crime of armed robbery.

On March 5, 2014, Mr. Rusts' motion was denied by the Honorable Tillman self as untimely, and in denying such mistakenly construed the motion as an out of

Time Appeal.

A timely Notice of Appeal was filed on March 14, 2014, and a year later has not been ruled on by Judge Tillman self.

Mr. Rust's co-defendant, Donnie Rowe, filed a similar motion in the trial court that has been allowed to proceed to the Georgia Court of Appeals on direct appeal. See (Donnie Rowe v. The State, Appeal Case Number: A15A1102, Docket Date: February 17, 2015).

Argument And Citation of Authority

The O.C.G.A. § 5-6-43 (a) provides in relevant part: "The Clerk of Superior Court shall prepare and transmit the case record within 20 days after the date of filing of the notice of appeal..."

In this situation, a Timely Notice of Appeal was entered before the Superior Court of Bibb County on March 14, 2014 that has been ignored even though repeated attempts have been made to remedy this situation to no avail.

The Appellant's Due Process rights have been made to stand silent during this appeal process as well as his Equal Protection Clause under the Fourteenth Amendment of the United States Constitution.

State v. Greene, 171 Ga. App. 329, 320 S.E.2d. 183 (1984).

The record on appeal will show of the two (2) co-defendants in this criminal case; Edward Rust and Donnie Rowe, only Mr. Rowe has had his Constitutional rights observed and acted upon.

Relief Requested

The Appellant prays the Court to:

1. Make a Ruling on this Discretionary Appeal that is in favor of Edward Rust and that allows his direct appeal and entire case record be transmitted to the Georgia Court of Appeals.
2. Make an Order that restores Mr. Rusts' appeal rights and any other reason which serves the ends of justice.

Respectfully submitted,


Edward S. Rust, Pro se
Whitaker C.F.
P.O. Box 466
Alamo, Ga. 30411

CERTIFICATE OF SERVICE

I hereby certify I have sent true copies of
Discretionary Appeal to the Georgia Court of Appeals and
the Bibb Co. District Atty. by U.S. Postal Service, mailed to:

Georgia Court of Appeals
47 Trinity Ave.
Suite 501
Atlanta, Georgia 30334

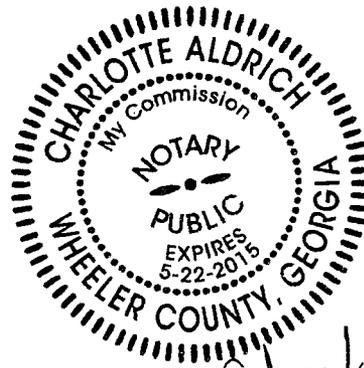
Bibb Co. District Atty.
601 Mulberry St.
Macon, Georgia 31201



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c.c.

Notary Public



IV.

Charlotte Aldrich
4-13-15