

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

November 24, 2015

To: Frederick M. Scherma, Esq., 3250 Summer View Drive, Johns Creek, Georgia 30022

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 Gary Dewayne Mullis. Therefore, I am returning your correspondence to you.**
- 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.
- 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.

THE COURT OF APPEALS
STATE OF GEORGIA

RECORDED IN OFFICE
2015 NOV 18 PM 3:10
COURT OF APPEALS

GARY DEWAYNE MULLIS,

APPELLANT

vs.

CASE NO.: undocketed

STATE OF GEORGIA,

APPELLEE

MOTION TO WITHDRAW AS ATTORNEY

COMES NOW FREDERICK M. SCHERMA, Appellate Attorney (hereinafter referred to as attorney) of record for GARY DEWAYNE MULLIS, Appellant, and moves the Court to withdraw as attorney for the Appellant and shows the Court the following:

(1)

The Attorney is filing this motion to withdraw from this action because the Appellant demands to proceed *pro se*.

(2)

This case has not yet been docketed in this the Court of Appeals, however, a Notice of Appeal has been timely filed in this case on September 28, 2015 in the Superior Court of Cobb County, Case No. 13-9-3706-40 (A copy is enclosed as Exhibit "A").

(3)

The Appellant has advised the Attorney in 3 separate telephone calls and additionally in writing (a copy is attached as Exhibit "B") that he is demanding that the Attorney withdraw and that he wishes to proceed pro se.

(4)

The Attorney has advised the Appellant of his obligation that he must prepare and file a brief with his legal arguments in the Court of Appeals and he must follow all of the Rules of the Georgia Court of Appeals, and that failure to comply with the Court Rules may cause him to suffer adverse consequences. A copy of Attorney's letter to the Appellant is attached as Exhibit "C".

(5)

The Appellant's address is: Gary Dewayne Mullis, Georgia Department of Corrections No. 0000264611, 2164 Georgia Highway 147, Reidsville, GA 30499-9000.

(6)

Under the circumstances, the Attorney is ethically bound to withdraw from this case.

(7)

Service of this motion to withdraw is being made on the Appellant/client and the District Attorney of Cobb County.

This 16th day of November, 2015.

Respectfully submitted,

A handwritten signature in black ink, reading "Frederick M. Scherma". The signature is written in a cursive style with a horizontal line underneath the name.

Frederick M. Scherma,
Attorney for Appellant
GA Bar No.: 629175
3250 Summer View Drive
Johns Creek, GA 30022
(404) 266-8835

THE COURT OF APPEALS
STATE OF GEORGIA

GARY DEWAYNE MULLIS,
APPELLANT

vs.

STATE OF GEORGIA
APPELLEE

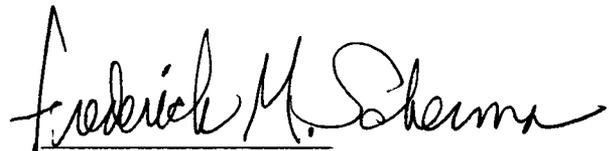
CASE NO.: undocketed

CERTIFICATE OF SERVICE

I hereby certify that on the below stated day I served:

- (1) The State of Georgia with the following: Motion To Withdraw, by hand delivery to the District Attorney of Cobb County at 70 Haynes St., Marietta, GA 30090, and
- (2) The Appellant, Gary Dewayne Mullis, (Inmate No. 0000264611) by U.S. Mail with adequate postage affixed at: 2164 Georgia Highway 147, Reidsville, GA 30499.

This the 16th day of November, 2015.



Frederick M. Scherma
GA Bar No.: 629175
3250 Summer View Drive
Johns Creek, GA 30022
(404) 266-8835

IN THE SUPERIOR COURT OF COBB COUNTY FILED AND RECORDED
STATE OF GEORGIA

2015 SEP 28 AM 10:56

THE STATE OF GEORGIA

vs.

GARY DEWAYNE MULLIS,

Defendant

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Opheelia Houston
COBB SUPERIOR COURT CLERK

CASE NO.: 13-9-3706-40

NOTICE OF APPEAL

Notice is hereby given that the Defendant above named, hereby appeals to the Court of Appeals of Georgia from the judgment of conviction entered herein on May 21, 2014 and imposed sentence entered on May 29, 2014.

The Defendant was found guilty of: Count 2: obstruction of a police officer, however, the Defendant was found not guilty of Count 1: attempting to remove a weapon from a police officer.

The Defendant was sentenced on May 29, 2014 to 5 years to serve in prison as a recidivist.

The Defendant's Motion for New Trial was denied on September 2, 2015 and filed on September 9, 2015.

The clerk will omit no portion of the record except as further stated.

Further, the clerk will include the trial transcript in the record but omit the transcript of the Motion for New Trial.

The Court of Appeals has jurisdiction of this appeal as it involves a subject upon which jurisdiction is not conferred upon the Supreme Court of Georgia by the 1983

Exhibit "A"

Constitution of Georgia, Article VI, Section VI, Paragraph III and involves the correction
of errors of law.

This 28th day of September, 2015.



Frederick M. Scherma
Frederick M. Scherma,
Attorney for Defendant
Georgia Bar No.: 629175

19 Karland Drive NW
Atlanta, GA 30305
(404) 266-8835

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA

vs.

GARY DEWAYNE MULLIS,

Defendant

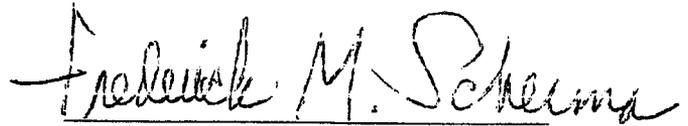
CASE NO.: 13-9-3706-40

CERTIFICATE OF SERVICE

I hereby certify that I have served the State of Georgia with a copy of Defendant's Notice of Appeal by hand delivery or by _____ placing same in the U. S. Mail with sufficient postage thereon addressed to:

District Attorney of Cobb County,
Appellate Division
70 Haynes Street
Marietta, GA 30090

This 28th day of September, 2015.



Frederick M. Scherma
Attorney for Defendant
Georgia State Bar No.: 629175

19 Karland Drive, NW
Atlanta, GA 30305
(404) 266-8835

Mr. Frederick Scherma Esq.

10/26/15

RE: Request to Proceed Pro Se.

Dear Mr. Scherma:

Please find enclosed my pleading to the Court requesting to proceed ~~Pro Se~~. My issues on appeal are far too significant to allow these seminal matters (i.e. age 62 vs. OCIA's 17-10-7(c)) to go unrepresented and/or underrepresented. I also note that you've failed to notify me of the Court's denial of my Motion for New Trial as handed down on Sept 2nd -- almost 3 months previous! Moreover, you've done nothing to advise me of ANY actions on my behalf nor have you placed a sentence modification before the Court.

I wish only the best for you Sir, but I believe you owe it to yourself and your clients to "exercise your demons" so that your representation might live up to your abilities Sir.

Thanks so much & best wishes to you
& yours.

Respectfully,



Grady D. Mullis #216467

Gr.S.R. #83-18

2164 Coa Hwy 147

Reidsville, GA

30444

R.S. - * Please forward all transcripts, Motions, and other pleadings, documents, etc to me at this address ASAP.

Exhibit "B"

Wm. D. Muller, Jr.
The State of Georgia

Case No. 13-9-3106-40

"REQUEST TO REMOVE COUNSEL OF RECORD"
AND TO PERMIT DEFENDANT TO SELECT PROSE

Counsel, Newell & Muller, is absent in the Department of
action and makes this his Motion/Request to David B. ...
and states the following in support thereof:

Defendant has previously indicated that he has been advised
[Judge Henry I. ...] to communicate with Defendant, present
material issues on appeal, provide Defendant with
copies of pleadings, briefs, etc., and generally represent
Defendant's best interest.

Defendant further avers that counsel (Mr. Show) has
too great an affinity for judicial assumption;

Mr. Show's inadequate representation is further
evidenced by his failure to advise this Defendant of the
Court's denial of my Motion for New Trial on Sept 1, 2015
or Oct 14, 15. Moreover, Mr. Show's failure to present briefs
on age 18 issue and with my trial counsel are/were and will
have resulted in irreparable and life;

Defendant, who is afflicted with some mental health
issues, has sought and is from L.S.P. Institution since []
where [] is now [] to practice, is [] and there
to be well supported in this [] of [] self []

Respectfully Submitted, *Wm. D. Muller, Jr.*

This 27th day of Oct 2015.

2167 103 4041
R. ...

November 9, 2015

Gary Dewayne Mullis
Dept. of Corrections No.: 0000264611
2164 GA Hwy. 147
Reidsville, GA 30499

RE: State vs. Gary Dewayne Mullis
Appeal - Case No. 13-9-3706-40,
Superior Court of Cobb County

Dear Gary:

I have recently received 2 different telephone messages that you want me to withdraw from your case and that you want to proceed pro se. Please send me a brief statement stating your desire, as soon as possible, and I will forward your file to you. Please note that my new address is 3250 Summer View Drive, Alpharetta, GA 30022. My telephone number is the same.

I filed a Notice of Appeal and I are waiting for your case to be docketed in the Court of Appeals of the State of Georgia. Please understand that as pro se you will have the obligation for preparing your brief with your legal arguments before the Court of Appeals, and you must follow all of the Court's Rules. The Court of Appeals will have jurisdiction, and if you fail to comply with Court Rules, you may suffer adverse consequences.

I am preparing a motion to be forwarded to the Court of Appeals withdrawing from your case.

If you have any questions, please advise.

Yours very truly,


Frederick M. Scherma

Exhibit "C"