



## Court of Appeals of Georgia

November 16, 2015

TO: Mr. Deroderick Seward, GDC1173998, Calhoun State Prison, Post Office Box 249,  
Morgan, Georgia 39866

RE: **A15A1598. Deroderick M. Seward v. The State**

### CHECK RETURN

- Your check number \_\_\_\_\_ in the amount of \_\_\_\_\_ written on the account of your firm for the filing fee in \_\_\_\_\_ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by \_\_\_\_\_.

### ~~CASE STATUS - DISPOSED~~

- The referenced appeal was affirmed on October 23, 2015. The remittitur issued on November 9, 2015, divesting this Court of any further jurisdiction of your case. The case is therefore, final. I am returning your document to you.**

### CASE STATUS - PENDING

- The above referenced appeal is pending in your name before this Court. The appeal was docketed in the \_\_\_\_\_ Term and a decision must be rendered by the Court by the end of the \_\_\_\_\_ Term which ends on or around \_\_\_\_\_.

### APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

# Court of Appeals of Georgia

Seward  
(Petitioner)

v.

State of Georgia  
(Respondant)

FILED IN OFFICE

NOV - 8 2015

COURT CLERK  
CLERK COURT OF APPEALS OF GA

RECEIVED IN OFFICE  
2015 NOV - 8 PM 3:06  
COURT OF APPEALS OF GA

Case No: AISA1598

Indictment no: 03CR225

Motion

Come now, Sev  
Above styled as  
this Honorable

Case In  
"R"  
status

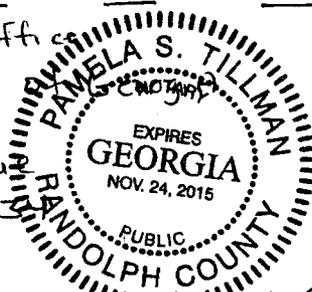
reconsideration

Respondant in the  
by moves

1. Defendants, Due to rights were violated when Trial Counsel failed to file Direct Appeal after judgement in allotted time. Defendant was insured and was denied the right to Appeal [5-6-33]
2. Defendants, Trial Counsel was ineffective for not filing defendants Direct Appeal before the 30 day time limit, which violated defendants right to Appeal.

Wherefore, Defendant respectfully request this Honorable Court to reconsider October 23, 2015 Denied Appeal (AISA1598).

Clerk of Office  
Court of Appeals  
Suite 501  
47 Trinity Avenue  
Atlanta GA 303



Paul S. Tillman

Deroderick Seward  
Culhoon State Prison  
P.O. Box 249  
Morgan GA 39866  
GDC# 1173998

Deroderick Seward

IN THE COURT OF APPEALS  
FOR THE STATE OF GEORGIA

APPEAL CASE NUMBER: A15A1598

Dorodick M. Seward,  
Appellant-Prose

vs.

State of Georgia,  
Appellee.

APPELLANT'S BRIEF

Dorodick M. Seward # 1173998  
Calhoun State Prison  
P.O. Box 249  
Morgan, GA 39866

COMES NOW, the Appellant (hereinafter "Appellant"), prose and files this Appellant's Brief regarding the denial of a "Motion For Out-of-Time Appeal" (hereinafter "ME OOTA") on the 11<sup>th</sup> of December, 2004, and shows this Honorable Court the following:

## PART ONE

### STATEMENT OF PROCEEDINGS BELOW

#### A. Statement of Proceedings Below

The Appellant was arrested on or about the 30<sup>th</sup> of November, 2002 and charged with the offense of "Aggravated Child Molestation". An indictment was returned in the Superior Court of Rowles County on the 28<sup>th</sup> of February, 2003 charging the same above stated offense. The Appellant maintained his innocence and selected to proceed to trial by jury that did commence on the 30<sup>th</sup> of September, 2004. The Appellant was subsequently found "guilty" to the charges of the indictment on the 1<sup>st</sup> of

October, 2004, and sentenced on the 19<sup>th</sup> of October, 2004 to a term of 30 years to serve 15 in prison. Directly after the judgment was entered, the Appellant fully requested to their defense counsel, B. Miles Hannan, to file for an appeal of the conviction. However, Mr. Hannan absolutely failed to respect the wishes of the Appellant, and failed to file for a "Direct Appeal" to this court. On the 20<sup>th</sup> of November, 2004, the Appellant did file a "MFOOTA" that was subsequently overruled and denied on the 11<sup>th</sup> of December, 2004. This appeal regarding the denial followed.

## PART TWO

### ENUMERATION OF ERRORS

1. The Appellant should be allowed the granting of an "Out of Time Appeal" due to his being ultimately misled to his prejudice by their trial counsel for counsel's failure to file any post-conviction relief motions or Direct

Appeal / Reviewing Court's abuse of discretion in overruling the motion in the lower court.

## STATEMENT OF JURISDICTION

This Court has jurisdiction of this case rather than the Supreme Court of Georgia for this case does not qualify under the clause of the Georgia Constitution, article VI, Section 6, Paragraph 3.

## PART THREE

### ARGUMENT AND CITATIONS OF AUTHORITY

1. The Appellant should be allowed the granting of an "Out-of-Time Appeal" due to his being misled to his prejudice by their trial counsel for counsel's failure to file any post-conviction motions or direct appeal /

Reviewing Court's Abuse  
of Discretion in Overturning  
The Motion in The Lower  
Court:

The Appellant respectfully pleads to this Court to reverse the order overturning and denying out-of-time leave to file for either direct appeal, or Motion For New Trial based squarely and solely on the then trial counsel for the defense, B. Miles Hannan's, absolute failure to file for Appellate relief with respect to the appeal rights of the Appellant. At NO fault of his own, the Appellant has been severely violated and deprived of his right(s) to appeal when defense counsel wantonly abandoned the case after the Appellant's subsequent conviction, and essentially mistreated the Appellant to his prejudice that he has suffered. See Ingram v. State, 300 GA App. 874, 686 S.E.2d 440 (2009).

The hearing Court, Judge Frank D. Horkan, overruled and denied the "MFOOTA" and

stated that "good and sufficient reason" was not established as to why a "MFOA" should have been granted, and the court relied upon the case of Pearson v. State, 265 Ga. App. 574 (2004). However, the Appellant now states that there is "good and sufficient reason" that he should be granted leave to an out-of-time appeal, and that he should be reinstated the original 30 day time limit that he initially had to either file a "Motion for New Trial" or a "Notice of Appeal" based on the following: (1) Appellant has been violated and deprived of his appeal rights by his defense counsel for his abandonment of the case - an absolute harm and prejudice to the Appellant; (2) The Appellant is entitled to the relief that is now sought per United States Constitution, and similar provisions thereof within the Georgia State Constitution; (3) The Appellant is seeking to be acquitted and discharged due to the prosecution's failure to prove guilt beyond a reasonable doubt; (4) The trial court may have committed error of law that warrants a new trial; (5) The verdict and judgment are con-

trary to the law; (6) The verdict and judgment to the evidence is contrary and undermines the principles of Justice and equity regarding the United States Constitution; (7) The verdict and judgment are decidedly and strongly against the weight of the evidence; and (8) Counsel at trial for the defendant rendered absolute ineffective assistance of counsel in every regard throughout every phase of the case.

In citing and relying heavily on the law and authority in the case of Roland V. Martin, 201 GA. 190, 637 S.E.2d.23 (2006), the Appellant quotes from the case as follows: "If it is found that the [Appellant] was denied his right to appeal by counsel, the appropriate remedy would be the grant of an out-of-time appeal".

### CONCLUSIONS

For the above reasons, the Appellant Deshaun Montel Seward, respectfully request and pleads to this Honorable

and Constitutionally abiding Court to reverse  
the order of the hearing Court that overruled  
and wrongfully denied the relief that was  
sought in the Court, and GRANT the Appellant  
the leave to an "Out-of-Time Appeal" that  
would provide the original 30 day time  
period that the Appellant was violated and  
deprived of for the harm and the prejudice  
that has been inflicted upon the Appellant  
warrants and mandates such relief.

Respectfully Submitted on This 30 Day  
of October 2015.

~~DeDorick Seward~~

DeDorick M. Seward

#1173998

Calhoun State Prison

P.O. Box 249

Morgan, GA 39866

IN THE COURT OF APPEALS  
FOR THE STATE OF GEORGIA

Dedderick M. Seward,  
Appellant - Pro Se

VS.

Appeal Case Number:

State of Georgia,  
Appellee.

SPECIAL CASE NOTE / MEMORANDUM  
TO THE JUDGE

Please note that the herein and above Appellant, Dedderick M. Seward, makes this special attachment note to the court that at NO TIME was defense counsel, B. Miles Haman, ever allowed leave to withdraw as counsel from the instant case until the date of December 11, 2014, the actual date that the "Motion For Out-Of-Time Appeal" hearing was held. Therefore, based solely on the fact that the defense counsel was the attorney of record after the Appellant was subsequently convicted in jury trial, then defense counsel should have file either a "Motion For New Trial" or

a "Notice of Appeal" to contest the judgment entered. However, counsel failed to do so and such actions constitute ineffective assistance and a violation or depriving of appellate rights.

Submitted with Appellant's Brief On  
This 30 Day of October 2015.

Nedelotich M. Seward

Nedelotich M. Seward # 1179998

Calhoun State Prison

P.O. Box 249

Morgan, GA 30956

CERTIFICATE OF SERVICE

This shall certify that I have served a true and correct copy of the foregoing "Appellant's Brief" upon the opposing party - State of Georgia, via U.S. Postal Mail Services, with the adequate prepaid postage affixed, and properly addressed as follows:

Office of The District Attorney  
Lowndes County Office  
P.O. Box 99  
Valdosta, GA 39866

Office of The Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334

Served on this 30 Day of October 2015.

x *DeRoderick Seward*  
DeRoderick M. Seward  
#1173998  
Calhoun State Prison  
P.O. Box 249  
Morgan, GA 39866

IN THE COURT OF APPEALS  
FOR THE STATE OF GEORGIA

Dorodetrick M. Seward,  
Appellant - Pro Se

VS.

Appeal Case Number:

A15A1598

State of Georgia,  
Appellee.

SPECIAL CASE NOTE / MEMORANDUM  
TO THE BRIEF

Please note that the herein and above Appellant Dorodetrick M. Seward makes this special attachment note to the court that at NO TIME was defense counsel, B. Miles Homan, ever allowed leave to withdraw as counsel from the instant case until the date of December 11, 2014, the actual date that the "Motion For Out-Of-Time Appeal" hearing was held. Therefore, based solely on the fact that the defense counsel was the attorney of record after the Appellant was subsequently convicted in jury trial, then defense counsel should have file either a "Motion For New Trial" or

a "Notice of Appeal" to contest the judgment entered. However, counsel failed to do so and such actions constitute ineffective assistance and a violation of depriving of appellate rights.

Submitted with Appellant's Brief On  
This 30 Day of October 2015.

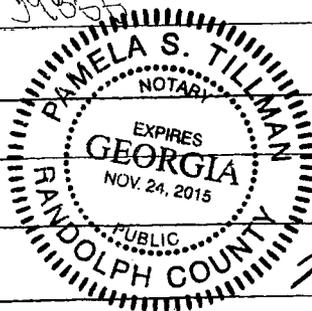
~~Deborah~~ Frederick M. Seward

Frederick M. Seward # 1173998

Callahan State Prison

P.O. Box 249

Morgan, GA 30856



Paul S. Tillman  
1030 2015

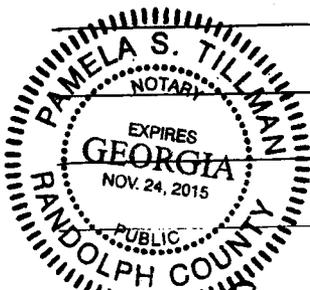
CERTIFICATE OF SERVICE

This shall certify that I have served a true and correct copy of the foregoing "Appellant's Brief" upon the opposing party - State of Georgia, via U.S. Postal Mail Services, with the adequate prepaid postage affixed, and properly addressed as follows:

Office of The District Attorney  
Lowndes County Office  
P.O. Box 99  
Valdosta, GA 39866

Office of The Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334

Served on This 30 Day of October 2015.



Paul S. Tillman  
10-30-2015

\* DeFoderick Seward  
DeFoderick M. Seward  
#1173998  
Callison State Prison  
P.O. Box 249  
Morgan, GA 39866

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served this 30 day of October, 20 15, by U.S. mail, postage pre-paid to Court of Appeals of Georgia  
47 Trinity Avenue, Suite 501  
Atlanta GA 30334

DeRoderick Seward  
Signature

Seward, DeRoderick <sup>GDC#</sup> 1173998  
Inmate Name and GDC Number

Calhoun State Prison

G-1 210-Top

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P.O. Box 249

Morgan, GA., 39866

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Lowndes County Office  
P.O. Box 99  
Valdosta, GA 39866

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