

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

April 14, 2015

To: Mr. Roy Lee Smith, GDC1000661938, Valdosta State Prison, 3259 Val Tech Road, Valdosta, Georgia 31603

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 current case pending in the Court of Appeals of Georgia under your name.**

**If you are seeking legal assistance, this Court cannot assist you. You may want to write the Center for Prisoners Legal Assistance, Inc., Post Office Box 1268 in Alpharetta, Georgia 30009. I am returning your documents 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.

**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.

**Your appeal was disposed by opinion (order) on \_\_\_\_\_.** The Court of Appeals \_\_\_\_\_  
divesting this Court of jurisdiction. The remittitur issued on \_\_\_\_\_  
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.

RECEIVED IN OFFICE

2015 APR 10 PM 3:53

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Court of Appeals of Georgia  
47 Trinity Avenue, S.W. Ste 501  
Atlanta, Georgia 30334

April 06, 2015

Dear honor Chief Judge Indictment No.

I am requesting permission to file an motion to vacate and set aside on void judgment in this Court pursuant to O.C.G.A. 9-11-60(A) A judgment void on its face may be attacked in any Court by any person and See O.C.G.A. 5-6-35 cases requiring applic- ation for appeal, reasons. The Fifth amendment v. No person shall be held to answer for a capita or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, no person shall be put in jeopardy of crimes unless indicted by a grand jury See In Zugar v. State 194, Ga 285, 21, S.E. 2d 647, No. 14227 July 15, (1942); Dempsey v State 290, Ga. 763, 764, (2012). The Supreme Court of Ga held in both of these cases In order to render an indictment valid it must be returned into open Court either by a the Grand jury's as a body or by the

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sworn grand jury bailiff. The term open court as used in rule requiring an indictment to be returned into open court by grand jurors as a body or by sworn grand jury Bailiff means personal appearance of grand jury in Court room or place where Court is being held open to public with judge and Clerk present. Also transcript of minutes of proceeding and records, defendant never waived indictment pursuant to O.C.G.A. 17-7-70.1 and must not be put in any jeopardy of accusation and is void unless indictment by a grand jury. honor I received a Letter February 26, 2015 From the District Attorney in Chatham County (EJC) informing defendant there are no minutes, recording, transcript From defendant True bill indictment, Also a copy of my indictment True bill states Filed in office by Deputy Clerk of Court, not returned in open Court as required in this state of Georgia. I was force to represent my self at a plea

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hearing on June 23, 2013 before the Superior Court Judge Louisa Abbot Eastern Judicial Circuit Chatham County Savannah, Ga, the (ADA) Mr. Frank Pennington II said I was indicted on July 18, 2012, and the victims never testified to any aggravated assault or influencing witnesses Felony charges as required See In Dixon v State, 155 Ga. App. 17 270, S.E. 2d 192, (1980). held proper administration of oath must appear of record In a criminal case the accusation is void, unless the oath is properly administered and this appears From the record and the whole proceeding is a nullity (void). Indictment O. C. G. A. 17-7-55, Also defendant was required to represent himself and record June 28, 2013 shows insufficient waiver of Counsel Day's v. State, 279, Ga. App. 628, 631, S.E. 2d 815, (Ga. App. 2006), and no Faretta hearing was administer or held, Faretta v. California, 422, us 806, (1975); Clerk v Zent, 247, Ga. 194, (1981), Middleton, 254 Ga. (2002).

Also guilty Plea was not shown to have been entered knowingly and voluntarily and intelligently Johnson v. Smith, 280, ~~GA. 235, 626, S.E. 2d 470, (2006)~~, Boykin v. Alabama 395, US 238, (1969); Foskey v Battle, 277, Ga. 480, (2004); Bazemore, 273 Ga. 160 (2000). Chief Judge I am requesting permission to File a motion to vacate or set aside an void judgment in this Court of Appeals pursuant to O.C.G.A. 9-11-60 (A) Relief From Judgment, Collateral attack O.C.G.A. 5-6-35 (8), because this conviction/ sentence is illegal and void and must be vacated here and this Court Jurisdiction is vested in 9-11-60, 5-6-35, and defendant's liberty is and due process is at state and legal remedy Lies here please give defendant permission to File a (motion) at this Level 9-11-60 (A) 5-6-35 sec.(8).

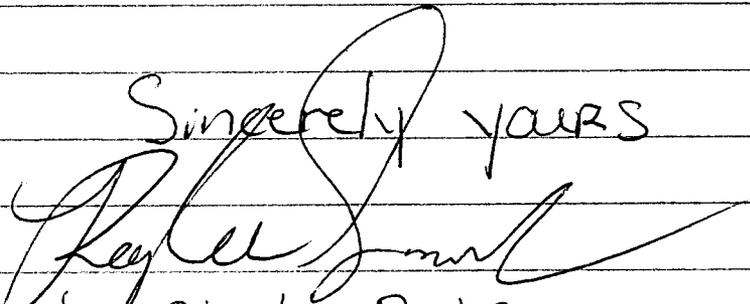
with kind regards

Rufus Smith

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a copy of the (ADA) Letter verifying there are no recordings, minutes or transcript of grand jurors returning any true bill indictment on July 18, 2012. Moreover can be provided for this Court's review. Also there are no oath of administer of testimony for accusations on record and this Court must entertaine

Sincerely yours



Valdosta State Prison  
P.O. Box 310  
3259 Val Tech Road  
Valdosta, Ga 31603

April 06, 2015