COURT OF APPEALS OF GEORGIA

RETURN NOTICE

April 21, 2015

To: Mr. Bruce Turner, GDC154884, Georgia Diagnostic and Classification Center, State Prison, Post Office Box 3877, Jackson, Georgia 30233

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 your name.**

☐ **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 _____. 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 attorneys must file a Motion to Withdraw as Counsel and it must be granted, before you can file your own pleadings in this Court. Our records show your attorneys of record are: Jason Swindle and Dane Garland.**

☐ **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.

IN THE COURT OF APPEALS STATE OF GEORGIA

ORIGINAL COPY

A15A1431

BRUCE TURNER

DEFENDANT

VS

THE STATE

RECEIVED IN OFFICE
2014 OCT 17 PM 3:42
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

CASE NO. [redacted]376

RECEIVED IN OFFICE
2014 DEC 19 PM 3:19
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COURT OF APPEALS OF GA

AMENDMENT TO APPEAL
APPEAL TO DEFENDANT DENIAL
TO WITHDRAW GUILTY PLEA

COME NOW THE DEFENDANT IN THE ABOVE STYLE CASE HEREBY FILE HIS AMENDMENT TO HIS NOTICE TO APPEAL HIS DENIAL TO HIS MOTION TO WITHDRAW GUILTY PLEA.

HISTORY OF THE CASE

THE DEFENDANT WAS ARRESTED IN MAR 25, 2013 FOR THE OFFENSE OF THEFT BY SHOPLIFTING [redacted]. THEFT BY SHOPLIFTING MISDEANOR POSSESSION OF MARIJUNA.

DEFENDANT ENTERED A GUILTY PLEA ON JAN 16, 2014, ON JAN 16, 2014 THE COURT SENTENCE [redacted] TEN (10) YRS SERVE EIGHT (8). ON JAN 17, 2014 THE DEFENDANT FILED A MOTION TO WITHDRAW HIS GUILTY PLEA ON JUNE 18, 2014

THE COURT SCHEDULED A HEARING ON JUNE 18, 201[illegible]
THE MOTION WAS DENIED ON JULY 1, 2014.

ATTORNEY FOR THE DEFENDANT WAS SWINDLE GROUP INC

THE DEFENDANT THEN FILED HIS NOTICE OF APPEAL ON July 8, 2014. APPEALING HIS DENIAL TO HIS MOTION TO MOTION TO WITHDRAW GUILTY PLEA.

GROUND ONE: INEFFECTIVE ASSISTANCE ON APPELLATE COUNSELOR. MR. SWINDLE.

SUPPORTING FACTS: ATTORNEY SWINDLE, FAILURE TO INVESTIGATE TRIAL COUNSEL PERFORMANCE AS TO HIM NOT INVESTIGATING THE LAWS AND FACTS SURROUNDING THE DEFENDANT CASE BEFORE CONVINCING THE DEFENDANT INTO TAKING A PLEA BARGIN, WHICH WAS AGAINST THE DEFENDANT BETTER JUDGMENT SINCE

1) THE DEFENDANT MADE AN CONFESSION WHILE BEING INTERROGATED, BUT WAS NEVER INFORMED DURING THE INTERROGATION THAT HE HAD THE RIGHT TO HAVE AN ATTORNEY PRESENT DURING QUESTIONING.
2) THE DEFENDANT NEVER SIGN A WAIVER SHOWING THAT HE GAVE UP HIS RIGHTS TO BE QUESTION WITHOUT THE PRESENT OF AN ATTORNEY.
3) NOR DID THE LAW ENFORCEMENT OFFICER PRODUCE A WAIVER TO ESTABLISH THAT THE DEFENDANT WAS EVER PRESENTED WITH ONE TO SIGN.
4) ATTORNEY SWINDLE FAILURE TO RAISE THE ISSUE AS TO TRIAL ATTORNEY FAILURE TO SUPPRESS THE EVIDENCE AS TO THE ALLEGED SUBSTANCE BEING MARIJUANA SINCE THE SUBSTANCE WAS NEVER TURNED OVER TO THE CRIME LAB FOR TESTING.

(5) THE CHAIN OF CUSTODY AS TO THE ALLEGED SUBSTANCE FOUND ON THE DEFENDANT AT THE TIME OF HIS ARREST WAS BROKEN FROM POINT (A) HIS ARREST, TO POINT (B) HIS COURT APPEARANCE. BECAUSE THE SUBSTANCE WAS NEVER PRESENTED IN COURT, NOR WAS IT TURNED OVER TO THE CRIME LAB FOR TESTING.

(6) ATTORNEY SWINDLE FAIL TO INVESTIGATE ANY OF THE SOURCES OF INFORMATION GIVEN TO HIM BY THE DEFENDANT CONCERNING THE CASE.

(7) ATTORNEY SWINDLE, FAILURE TO CONSULT WITH THE DEFENDANT BEFORE TRIAL TO GAIN BACKGROUND INFORMATION ABOUT THE CASE SO THAT HE COULD PREPARE A DEFENSE

(8) ATTORNEY SWINDLE WAS INEFFECTIVE IN HIS FAILURE TO RAISE THE DUE PROCESS VIOLATION AS TO THE CORRECT PROCEDURE BEING FOLLOWED WHEN AN ALLEGED SUBSTANCE IS FOUNDED BELIEVED TO BE A DRUG OF SOME KIND.

THE EVIDENCE FROM THE TRANSCRIPT OF THE HEARING WILL CLEARLY ESTABLISH THE FACTS AND SHOW THAT COUNSEL SWINDLE WAS JUST AS EQUALLY INEFFECTIVE, AS MY TRIAL ATTORNEY WHO DID NOTHING TO ESTABLISH MY INNOCENSE NOR ESTABLISH ANY KIND OF DEFENSE.

IN DETERMINING WHETHER REPRESENTATION WAS NOT PRESENTED A FACTUAL INQUIRY SHOULD BE CONDUCTED TO DETERMINE.

1). WHETHER THE DEFENDANT HAD A DEFENSE WHICH WAS NOT PRESENTED.

ANSWER: YES. THE DEFENDANT DUE PROCESS RIGHTS WAS VIOLATED WHICH THE FIFTH AND FOURTEEN AMENDMENT TO THE UNITED STATES CONSTITUTION GUARANTEES.

WHEN THE LAW ENFORCEMENT OFFICER FAIL TO TURN OVER THE SUBSTANCE FOUND ON THE DEFENDANT TO THE CRIME LAB FOR TESTING. THE CHAIN OF CUSTODY AS TO THE SUBSTANCE FOUND WAS BROKEN FROM POINT (A) HIS ARREST TO POINT (B) HIS COURT APPEARANCE. NO ONE COULD PRODUCE THE SUBSTANCE ALLEGED TO BE FOUND ON THE DEFENDANT AT THE TIME OF HIS ARREST. AS SUCH, NOR WAS THERE A REPORT FROM THE CRIME LAB AS TO THE SUBSTANCE FOUND.

HAD MR. SWINDLE PRESENTED THIS ARGUMENT THAT DEAD ATTORNEY FAIL TO ESTABLISH, THE EVIDENCE COULD HAVE BEEN SUPPRESS AND THE DEFENDANT DUE PROCESS NOT VIOLATED. SO YES, MR. SWINDLE HAD A DEFENSE THAT WAS NOT PRESENTED.

2) WHETHER COUNSEL CONSULTED SUFFICIENTLY WITH DEFENDANT.

ANSWER: NO. WHEN DEFENDANT ARRIVED AT THE DOUGLAS COUNTY MR. SWINDLE DID NOT VISIT THE JAIL TO SPEAK WITH HIS CLIENT, NOR DID HE INFORM HIS CLIENT THAT HE WOULD BE ASKED TO TAKE THE WITNESS STAND.

MR. SWINDLE SPOKE WITH HIS CLIENT THE DAY OF THE HEARING WHEN THE DEFENDANT WAS BROUGHT INTO THE COURT ROOM. SO IS MR. SWINDLE DID NOT CONSULT SUFFICIENTLY WITH CLIENT.

3) WHETHER COUNSEL ADEQUATELY INVESTIGATE THE LAW AND FACTS.

ANSWER: NO: MR. SWINDLE FAIL TO INVESTIGATE THE LAW AS TO MIRANDA, BECAUSE ANY ~~CONFESSION~~ CONFESSION TAKEN BEFORE MIRANDA WARNING IS GIVEN VIOLATES THE FOURTH AMENDMENT AND FIFTH AMENDMENT, SINCE MR. SWINDLE FAIL TO ARGUE THE FOURTH AND FIFTH AMENDMENT CLAIM, THEN THE RECORD CLEARLY SHOWS THAT MR. SWINDLE DID NOT INVESTIGATE THE LAWS NOR THE FACTS SUPPORTING THE LAWS.

4) WHETHER OMISSION CHARGED RESULTED FROM INADEQUATE PREPARATION, RATHER THAN UNWISE CHOICES OF STRATEGY.

WHEN COUNSEL DO NOT HAVE BACKGROUND INFORMATION ABOUT THE CASE HE IS IN NO POSITION TO ADVISE THE DEFENDANT. STRICKLAND V WASHINGTON SUPRA AT 685

THE PREJUDICE FROM LACK OF PREPARATION AND EXPERIENCE CANNOT BE NICELY WEIGHED. UNITED STATES V CRONIC 675 F2d 1126

THE FAILURE TO INVESTIGATE AND PREPARE SOURCES OF EVIDENCE WHICH MAY HAVE BEEN HELPFUL TO THE DEFENSE IS BUT FAR THE GREATEST BREACH OF THE ATTORNEY'S DUTY TO ADEQUATELY DEFEND HIS CLIENT. DAVIS V ALABAMA 596 F2d 1214 (1979).

AT THE HEART OF EFFECTIVE REPRESENTATION IS THE INDEPENDENT DUTY TO INVESTIGATE AND PREPARE. Goodwin v Balkcom 684, 708 F2d 794, 805 (11th Cir 1982)

THEREFORE PERMISSIBLE DEFENDANT CAN NEVER INCLUDE THE FAILURE TO CONDUCT A REASONABLE SUBSTANTIAL INVESTIGATION INTO A DEFENDANTS ONE PLAUSIBLE LINE OF DEFENSE. WEINER v WAINWRIGHT 708 F2d 694, 696 (11th Cir 1983)

IN THE PRESENT CASE DEFENDANT COUNSEL'S OBVIOUS LACK OF EXPERIENCE AND JUDGMENT AND PROPER PREPARATION WAS JUST SHALLOWVIOUS. IT WAS UNREASONABLE TO QUOTE FROM STRICKLAND AT 685,

"THAT A PERSON WHO HAPPENS TO BE A LAWYER WHO IS PRESENT ALONGSIDE THE ACCUSED, HOWEVER IS NOT ENOUGH TO SATISFY THE THE CONSTITUTIONAL COMMAND, THE SIXTH AMENDMENT RECOGNIZES THE RIGHT TO THE ASSISTANCE OF COUNSEL BECAUSE IT ENVISIONS COUNSEL'S PLAYING A ROLE THAT IS CRUCIAL TO THE ABILITY OF THE ADVERSARIAL SYSTEM."

THE RIGHT TO COUNSEL IS SO FUNDAMENTAL TO A FAIR TRIAL THE CONSTITUTION CAN NOT TOLERATE TRIALS IN WHICH COUNSEL THOUGH PRESENT IN NAME IS UNABLE TO ASSIST THE DEFENDANT TO OBTAIN A FAIR DECISION ON THE MERITS. SUPRA AT 686

RELIEF SOUGHT

THE DEFENDANT ASK'S TO GROUND DUE INEFFECTIVE ASSISTANCE OF ATTORNEY GRANDE THAT HIS CONVICTION BE REVERSE

GROUND TWO: VIOLATION OF DEFENDANT MIRANDA RIGHTS

SUPPORTING FACTS: WHILE IN THE POLICE CUSTODY THE DEFENDANT WAS QUESTIONED BY POLICE OFFICERS IN A ROOM IN WHICH HE WAS CUT OFF FROM THE OUTSIDE WORLD. THE DEFENDANT WAS NOT GIVEN A FULL AND EFFECTIVE WARNING OF HIS RIGHTS AT THE OUTCOME OR OUTSET OF THE INTERROGATION PROCESS.

THE DEFENDANT SIGN AN CONFESSION WITH THE UNDERSTANDING THAT HE WOULD BE FREE TO LEAVE BUT HE COULD NOT RETURN BACK ON THE STORE PROPERTY.

1). THE PROSECUTION MAY NOT USE STATEMENTS, WHETHER EXCULPATORY OR INCULPATORY. STEMMING FROM QUESTIONING INITIATED BY LAW ENFORCEMENT OFFICERS AFTER A PERSON HAS BEEN TAKEN INTO CUSTODY OR OTHERWISE DEPRIVED OF HIS FREEDOM OF ACTION IN ANY SIGNIFICANT WAY, UNLESS IT DEMONSTRATES THE USE OF PROCEDURAL SAFEGUARDS EFFECTIVE TO SECURE THE FIFTH AMENDMENTS PRIVILEGE AGAINST SELF-INCRIMINATION. MIRANDA V ARIZONA 384 U.S. 436 (1966).

2). THE PRIVILEGE AGAINST SELF-INCRIMINATION, WHICH HAS HAD A LONG AND EXPANSIVE HISTORICAL DEVELOPMENT, IS THE ESSENTIAL MAINSTAY OF OUR ADVERSARY SYSTEM AND GUARANTEES TO THE INDIVIDUAL THE "RIGHT TO REMAIN SILENT UNLESS HE CHOOSES TO SPEAK IN THE [redacted] UNFETTERED EXERCISE OF HIS OWN WILL." DURING A PERIOD OF CUSTODIAL INTERROGATION.

ESCOBEDO V ILLINOIS. 378 U.S. 478.

RELIEF SOUGHT:

DEFENDANT ASK THAT HIS CONVICTION AS TO GROUND TWO VIOLATION OF HIS MIRANDA WARNING BE REVERSE.

GROUND THREE: OPINION OF A JUDGE 9-10-7 VIOLATION OF O.C.G.A. 17-8-57 AND BIAS. 24-9-68

SUPPORTING FACTS: DURING THE MOTION HEARING TO WITHDRAW GUILTY PLEA, THE STATE NEVER did PRODUCE THE ALLEGED SUBSTANCE FOUND ON THE DEFENDANT AT THE TIME OF HIS ARREST AT THE HEARING AS EVIDENCE.

THE STATE NEVER did PRODUCE NOR INTER IN AS EVIDENCE AT THE HEARING ANY DOCUMENTATION FROM THE CRIME LAB THAT COULD OR did CORROBORATE THE JUDGES PERSONAL OPINION STATED IN THE TRANSCRIPT AS TO THE DEFENDANT KNOWING THE SUBSTANCE ALLEGLY FOUND WAS MARIJUNA.

THE TRIAL COURT HAVE A DUTY, EVEN WITHOUT A MOTION THEREFOR TO SEE THAT THE TRIAL OR HEARING WAS FAIRLY CONDUCTED AND WHERE IMPROPER REMARKS ARE NOT MADED BY PROSECUTOR OR JUDGE.

THE ABSOLUTE DUTY OF THE JUDGE TO INTERVENE AND STOP IT AND BY ALL NEEDFUL INSTRUCTIONS REMOVE THE IMPROPER IMPRESSION. BUT WHEN THE VIOLATION IS MADE BY THE JUDGE HIS DECISION, THEN BECOME A PERSONAL OPINION WHICH IS BIAS AND UNSUPPORT BY LAW. FACTS NOR EVIDENCE BUT JUST THAT. AN OPINION.

RELIEF SOUGHT.

DEFENDANT ASK IN GROUND THREE THAT HIS CONVICTION BE REVERSE.

CONCLUSION:

THE DEFENDANT HAS MADE A CLEAR SHOWING FROM THE RECORD AS TO THE VIOLATIONS STATED IN THE FOLLOWING GROUNDS. THE DEFENDANT PRAYS THAT THIS COURT RECOGNIZING THAT PURSUANT TO MCCRORY V STATE 234 GA APP 321 (1998), IT IS NOT REQUIRED TO HOLD A HEARING ON THE MOTION.

THE DEFENDANT RECOGNIZING AND ACKNOWLEDGING THAT IT HAS THE JURISDICTION, POWER AND AUTHORITY TO CORRECT OR REDUCE OR REVERSE SENTENCE IMPOSED.

THIS 14 DAY OF OCT 2014

Bruce E Turner

BRUCE TURNER 154884
G.D.C.P. P.O. BOX 3877
JACKSON, GEORGIA 30233

PREPARED BY:

MR. BRUCE TURNER #154884
G.D.C.P. P.O. BOX 3877
JACKSON GEORGIA 30233
PRO SE

CERTIFICATE OF SERVICE:

I do hereby certify that I have this day served the within and foregoing amendment to appeal in the above style case. Prior to filing, the same, by depositing a copy thereof postage prepaid in the United States Mail to the following.

This 14 day of OCT 2014

Bruce Forrer
MR. BRUCE FORRER 154884

COURT OF APPEALS OF GEORGIA
SUITE 501
47 TRINITY AVENUE
ATLANTA, GEORGIA. 30334

DISTRICT ATTORNEY
8700 HOSPITAL DR.
DOUGLASVILLE. GA 30134

A15A1431

STATE OF GEORGIA

V

BRUCE TURNER

1) DEFENDANT WAS CHARGE WITH CX2 VIOLATION OF GEORGIA CONTROLLED SUBSTANCES ACT - POSSESSION OF LESS THAN ONE OUNCE OF ~~MARIJUANA~~ MARIJUNA O.C.G.A 16-13-30(a)(1).

FACTS: MARIJUNA TO BE LEGALLY IDENTIFIED MUST MEET THREE (3) TESTS. A94A0499 MAY 11, 1994.

(2)

NO EVIDENCE INTRODUCE IN THE DISCOVERY PACKAGE ESTABLISHES THAT THE MARIJUNA WAS TURNED OVER TO THE CRIME LAB FOR TESTING.

(3)

NO EVIDENCE DOCUMENTED THAT THE ALLEGED SUBSTANCE TAKEN FROM THE DEFENDANT WAS TESTED AND IDENTIFIED AS A CONTROLLED SUBSTANCE.

(4)

NO EVIDENCE ESTABLISH NOR PRESENTED THAT SHOWS THE THREE TESTS WAS MEET TO IDENTIFY THE SUBSTANCE AS MARIJUNA.

(5)

THE ARRESTING OFFICER T.R. ROESSEL WAS NOT AN EXPERT IN THE AREA OF DETERMINING IF A SUBSTANCE IS MARIJUNA BY THE LOOK OR SMELL OF THE SUBSTANCE.

(41)

Physical / Documentary Evidence which may be subpoenaed from a State Crime Lab Chemist's work product at trial are those memos notes graphs, computer printouts and other data the Chemist will rely upon, to support his or her testimony and to the substance found alleged to be drugs. Eason v State (10-9-90); Smith 890G0829,

(42)

Defendant contends that no waiver was presented nor signed that shows the defendant Miranda Rights was read.

It is for all the above reasons the defendant contends his attorney was ineffective and his plea should be withdrawn.

Mr. Swindle, please take a look at all these issues and Wake back and let me know how many at the request in my case and on my behalf when I'm returned back to court.

INEFFECTIVE ASSYSTANCE: LARONNA SCHURMAKER

INORDER TO PREVAIL A DEFENDANT MUST FIRST SHOW THAT COUNSEL PERFORMANCE WAS DEFICIENT AND SECONDLY SHOW THAT THE DEFICIENT PERFORMANCE WAS PREJUDICIAL TO THE DEFENSE THAT LEAD THE DEFENDANT TO PLEAD GUILTY WITH THE ADVICE OF HIS ATTORNEY LARONNA SCHURMAKER.

THE PROPER STANDARD FOR EVALUATING ATTORNEY SCHURMAKER PERFORMANCE IS THAT OF REASONABLY EFFECTIVE ASSISTANCE MEASURED by PREVAILING PROFESSIONAL NORMS STRICKLAND supra AT 466 U.S. 687-88.

THE EFFECTIVE REPRESENTATION OF CRIMINAL DEFENDANTS ENTAILS CERTAIN BASIC DUTIES INCLUDING BRINGING TO BEAR SUCH SKILL AND KNOWLEDGE AS WILL RENDER THE TRIAL A RELIABLE ADVERSARIAL TESTING PROCESS. ID AT 685

THE RIGHT TO COUNSEL IS SO FUNDAMENTAL TO A FAIR TRIAL THE CONSTITUTION CANNOT TOLERATE PROCEEDING IN WHICH COUNSEL, THOUGH PRESENT IN NAME IS UNABLE TO ASSIST DEFENDANT TO OBTAIN A FAIR DECISION ON THE MERITS.

STRICKLAND V WASHINGTON 466 U.S. 668 (1984) THAT A PERSON WHO HAPPENS TO BE A LAWYER IS PRESENT AT TRIAL ALONGSIDE THE ACCUSED HOWEVER IS NOT ENOUGH TO SATISFY THE CONSTITUTIONAL COMMAND.

The Sixth Amendment Recognizes the Right to the Assistance of Counsel because it envisions Counsel's playing a role that is critical to the Ability of the Adversarial System to produce just results.

The Failure to investigate sources of evidence which may have been helpful to the defense is but far the greatest breach of the Attorney's duty to Adequately defend his client. Davis v Alabama 596 F.2d 1214 (1979).

1) Attorney never did investigate to see if the substance in the bag taken from the defendant alleged to be marijuana ever tested positive.

2) Attorney never did investigate nor challenge the issue concerning miranda being read or waiver being signed or presented before questioning defendant.

The heart of effective representation is the independent duty to investigate and prepare. Goodwin v Balkcom 684 F.2d 794 @ (11 Cir 1982)

2) Counsel never did prepare concerning this case because no photograph was taken of the alleged controlled substance found on the defendant nor was any documentation present nor prepare by the Crime lab.

THEREFORE PERMISSIBLE TRIAL STRATEGY CAN NEVER INCLUDE THE FAILURE TO CONDUCT A REASONABLY SUBSTANTIAL INVESTIGATION INTO A DEFENDANT'S PLAUSIBLE LINE OF DEFENSE. WEBSTER V WAINWRIGHT 708 F2d 614. 616 (11TH CIR. 1983)

WHEN CIRCUMSTANCES HAMPER A LAWYER PREPARATION OF DEFENDANTS CASE A DEFENDANT NEED NOT SHOW SPECIFIC ERRORS IN THE CONDUCT OF HIS DEFENSE IN ORDER TO SHOW INEFFECTIVE ASSISTANCE OF COUNSEL. UNITED STATES V GOLUB 638 F2d 185. 187 (10TH CIR 1980).

4) COUNSEL WAS CLEARLY HAMPER BY SOMETHING WHEN IT CAME TO THE DEFENDANT CASE. BECAUSE NO ATTORNEY WOULD CONVINCE HIS CLIENT TO PLEA GUILTY WHEN THE EVIDENCE TO MAKE A CASE WAS NON-EXISTENCE BEFORE A HEARING WAS SCHEDULE.

5) NO ATTORNEY WOULD ALLOW HIS CLIENT TO PLEA TO A CONTROLLED SUBSTANCE CHARGE IF THE SUBSTANCE WAS NEVER TESTED OR DETERMINE TO BE A CONTROLLED SUBSTANCE.

THE PREJUDICE FROM LACK OF PREPARATION AND EXPERIENCE CANNOT BE EASILY WEIGHED UNITED STATES V CRONIC 615 F2d 1336 (10TH CIR 1980)

IN DETERMINING WHETHER REPRESENTATION WAS IN ADEQUATELY A FACTUAL INQUIRY SHOULD BE CONDUCTED TO DETERMINE.

(1)
WHETHER COUNSEL FAILED TO PRESENT A DEFENSE THAT WAS NOT PRESENTED.

(2)
WHETHER COUNSEL CONSULTED WITH FULLY WITH THE DEFENDANT.

(3)
WHETHER COUNSEL ADEQUATELY INVESTIGATED THE FACTS AND LAW.

(4)
WHETHER OMISSION CLAIMED RESULTED FROM INADEQUATE PREPARATION RATHER THAN UNWISE CHOICES.

WE COULD NOT HAVE BACKGROUND INFORMATION ABOUT THE CASE HE WAS NOT IN A POSITION TO ADVISE HIS CLIENT INTELLIGENTLY. STRICKLAND V WASHINGTON 466 U.S. 668 (1984)

MR. SWINTLE. THESE ARE ONLY A FEW OF THE ISSUES AND I LEAVE WHAT I WISH TO WITH YOU. MAY I ASK PLEASE GET BACK TO ME A.S.A.P. AND LET ME KNOW YOUR INPUT.

BRUCE TURNER 154884

Reasons for Withdrawal of Guilty Plea:

1) Ineffective Assistance of Counsel.

Counsel Advised Client to Plea Guilty When the State Never did establish From the evidence that the Substance Alleged to be Marijuna was ever identified As Such by the Crime lab.

Counsel Was Ineffective When She Fail to Question the interrogation Conducted that lead to the defendant making incriminating Statements Without first being Advised of his Right to Counsel.

Counsel Was Ineffective When She Allowed defendant license to be Suspended for a Marijuna Charge that Was never proven, nor Establish by the evidence Supporting the Crime lab Report.

Counsel Was Ineffective When She Fail to Question the State, As to how the Substance found on the defendant, tested positive. Without a Report From the Crime lab.

Counsel Was Ineffective When She Fail to Question the Misleading Statement on the bottom of the Statement form Signed by the defendant that Stated he Was free to leave After Signing Statement.