

COURT OF APPEALS OF GEORGIA

RETURN NOTICE

December 1, 2015

To: Mr. Bennie James Walker, GDC4693, Johnson State Prison, Post Office Box 344,
Wrightsville, Georgia 31096

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. I am returning your "Motion to Dismiss Appellant Pro Se Notice of Appeal without Prejudice" 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 _____
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.

IN THE SUPERIOR COURT OF BURKE COUNTY

STATE OF GEORGIA

Bennie James Walker

VS

STATE OF GEORGIA

INDICTMENT NO: 1999-R-0195

MOTION TO DISMISS APPELLANT PRO'SE NOTICE OF
APPEAL WITHOUT PREJUDICE

Comes now Defendant Bennie James Walker, and moves' this honorable Court to DISMISSED the notice of Appeal filed on October 16, 2015.

The Honorable Michael N. Annis entered an order on September 15, 2015. DENYING the Motion in arrest OF Judgment, as being not timely filed.

After having read and considered the fact of Law. APPELLANT Motion is in fact by law untimely filed.

THEREFORE, APPELLANT requests this honorable Court to Dismiss the notice of appeal at this time.

Sincerely,

Bennie James Walker

CERTIFICATE OF SERVICE

I, Bennie James Walker, being the Appellant in the foregoing Motion to DISMISSED his Notice of Appeal, do hereby depose and say that a true copy of the foregoing was served upon the District Attorney of the Augusta Judicial Circuit by depositing the same into the U.S. Mail, properly addressed, with proper postage affixed, this 24th day of November 24, 2015

Parties Served:

Joshua B. Smith, Assistant D.A.
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District Attorney Office
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Augusta Georgia 30901

Court of APPEALS of Georgia
47 Trinity Avenue Suite 501
Atlanta Georgia 30334

Sherril Cochran Cotes, Clerk
P.O. Box 803
Waynesboro, GA 30830

Respectfully submitted,
s/ Bennie James Walker #4693
Johnson State Prison
P.O. Box 344
Wrightsville, GA 31096