

# COURT OF APPEALS OF GEORGIA

## RETURN NOTICE

December 28, 2015

To: Mr. Wilson Carstaffin, Jr., GDC1000684628, Long State Prison, Post Office Box 70,  
Ludowici, Georgia 31316

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 Wilson Carstaffin, Jr.**
- 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.
- 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.

In the Court of Appeals  
State of Georgia

RECEIVED IN OFFICE  
2016 DEC 18 PM 3:42  
CLERK OF THE COURT  
COURT OF APPEALS OF GA

Wilson Carstaffin,

Appellant

v.

State of Georgia

Case No.

OSSC 64719

Motion

Comes now the appellant, pro se, to appeal a Fulton County Court's decision to amend his sentence instead of resentencing him and for not ruling on his Motion for the Appointment of Counsel. Appellant has filed a Notice of Appeal in Fulton County.

Case History

The appellant, an inmate at Long State Prison, was convicted by a jury in Fulton County on two counts of child molestation and one count of enticing a child for indecent purposes. Appellant was sentenced to serve twenty years concurrent on each child molestation conviction and twenty years consecutive on probation on the enticing a child for indecent purposes conviction. The conviction and sentence were affirmed by this court in Carstaffin v. State, 323 Ga. App. 354 (2013). The Georgia Supreme Court decided not to hear the case on January 06, 2014.

Defendant filed a pro se petition for habeas corpus relief on (or about) September 21, 2014 in Long County. The case was heard in Long County on March 12, 2015. On September 24, 2015, relief was denied except that

appellant will have to be resentenced on the child molestation convictions because O.C.G.A. 17-10-6.2 requires a split sentence for sexual offenses. On September 25, 2015, appellant filed a Motion for the Appointment of Counsel in Fulton County. On November 18, 2015, appellant's sentence was amended to "20 years - 19 years to serve but 1 year probation" to run concurrent on each charge.

### Jurisdiction

The Court of Appeals has jurisdiction to hear this case.

### Argument

Civil Action No. 2014-SU-HC-125-0C a Habeas Corpus Petition filed in Long County final ruling titled Findings of Fact and Conclusions of Law ordered the following; "Since Earsteffen did not receive a split sentence on the child molestation convictions as the statute requires, his sentence is void and he will have to be resentenced." Emphasis added. Appellant's sentence was amended instead of him being resentenced as the order stated. Also, appellant's Motion for the Appointment of Counsel was not ruled on before the court amended his sentence.

Appellant would argue that sentencing (or resentencing) is an important stage of the trial. If the defendant is indigent and counsel is requested, then counsel should have been appointed. An attorney would have been able to investigate and submit evidence to the court that may authorize a reduced sentence instead of the maximum sentence handed down by the court.

Closing

Appellant respectfully request to have an attorney appointed to represent him and to have a resentencing hearing on the matter. If evidence is presented that would authorize the court to reduce appellant's sentence, that it be considered.

Respectfully Submitted this 14<sup>th</sup> day of December, 2015

*W*

Wilson Carstaff, Jr. Appellant, pro se

1000684628

Long State Prison

P.O. Box 70

Ludowici, GA 31316

Certificate of Service

I certify that I have sent a Notice of Appeal by first class U.S. mail to the following;

Fulton County Superior Court Clerk

136 Pryor St.

Atlanta, GA 30303

This 14<sup>th</sup> day of December, 2015

*W*

Wilson Carstaff, Jr.