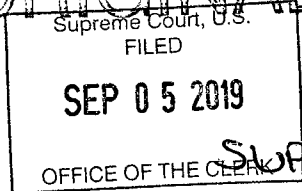


ORIGINAL CASE NO. 19-6134



IN THE
SUPREME COURT OF THE UNITED STATES

In re Recardo Wimbush and
Therian Wimbush

PETITION FOR WRIT OF HABEAS CORPUS

THERIAN WIMBUSH
#1001955340
Pulaski State Prison
P.O. Box 839
Hawkinsville, GA 31036

RECARDO WIMBUSH
#1001955757
Washington State Prison
P.O. Box 206
Davisboro, GA 31018

Related cases: 19-5209, 19-5210

resubmitted

9/20/19

returned undated 9/13/19

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2017 order denying the statutory
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filed November 2, 2016

NOTE: PLEASE see Appendices in docket no. 19-5209

QUESTIONS PRESENTED (GROUNDS)

1. VOID JUDGMENT of conviction for lack of Jurisdiction pursuant to U.S. Constitution Amendment XIV
2. SUBJECTION TO FORCED SLAVERY in violation of U.S. Constitution Amendment XIII and XIV
3. DENIAL OF STATUTORY RIGHT to a speedy trial pursuant to OCGA §17-7-170
4. DENIAL OF CONSTITUTIONAL RIGHT to a speedy trial pursuant to U.S. Constitution § VI
5. INSUFFICIENT EVIDENCE to support conviction
6. DENIAL OF DUE PROCESS, including kidnapping and false imprisonment, pursuant to U.S. Constitution Amendment XIV

BRIEF INTRODUCTION / COURSE OF PROCEEDINGS

On July 17, 2019, applicant's petition for writ of certiorari was placed on the docket, as case no. 19-5209, stemming from the United States Court of Appeals for the Eleventh Circuit denial of the application for Certificate of Appealability, stating that she had not exhausted state court remedies because her fully exhausted state habeas corpus petition was PREMATURE.

In said petition, petitioner raises four (4) questions:

- (1) Does the timely and legally sufficient filing of a Notice of Appeal of a directly appealable pretrial statutory speedy-trial

- motion preclude the trial court of jurisdiction to impose and execute a judgment of conviction and sentence?
- (2) When a VOID JUDGMENT of conviction and sentence is executed, can habeas corpus relief be PREMATURE?
 - (3) When a state habeas corpus petitioner provides the state courts with one full round of appellate review, is the petitioner required to file repetitious state petitions for relief before entering the federal forum?
 - (4) What is the *Barker v. Wingo*, *Duggett v. United States* type of criteria for excusing the federal habeas exhaustion requirement? [i.e. how long is too long]

Moreover, petitioners raised three (3) grounds in ~~their state~~ on their state and federal habeas petitions, for which orders have been rendered:

- (1) VOID JUDGMENT OF CONVICTION for LACK OF JURISDICTION pursuant to U.S. Constitution Amendment XIV
- (2) DENIAL OF DUE PROCESS, including kidnapping and false imprisonment pursuant to U.S. Constitution Amendment XIV
- (3) SUBJECTION TO FORCED SLAVERY in violation of U.S. Constitution Amendments XIII and XIV

Petitioners asserted that ALL THREE grounds cumulatively constitute a DENIAL OF DUE PROCESS of law under the FOURTEENTH Amendment to the U.S. Constitution.

Thus, petitioners show that they do NOT come to this Court forum raising frivolous nor dilatory

grounds, but grounds that are rare, exceptional, ~~and~~ are an issue of law and demonstrate that the judgment of conviction MUST BE REVERSED because they are NULL, VOID on their face, under BOTH federal and state law, thereby requiring their IMMEDIATE RELEASE.

In case no. 19-5209 the state concedes that:

- (1) petitioners statutory speedy trial motion for discharge and acquittal, filed in the original fraudulent indictment on August 28, 2015, was heard and orally denied on January 25, 2017.
- (2) Said oral order was reduced to writing signed by the assigned/designated judge, and filed with the clerk of Gwinnett County Superior Court on January 6, 2017.
- (3) On January 30, 2017, petitioners filed a timely and legally sufficient Notice of Appeal of the denial of the DIRECTLY APPEALABLE statutory speedy trial motion for discharge and acquittal. (Appendix 'A')
- (4) On February 1, 2017, the Gwinnett County Superior Court filed judgments of conviction and sentence for BOTH petitioners, which are identical. (Appendix 'B')
- (5) Petitioners were transferred to the custody of the Georgia Department of Corrections for execution of said judgment as early as February 3, 2017.
- (6) On February 3, 2017, petitioners filed a timely and legally sufficient Notice of Appeal of the judgment of conviction and sentence. (Appendix 'C')

Due directly to the EXECUTION of the VOID JUDGMENT of conviction and sentence, on March 13,

2017, petitioner Therian Wimbush filed her first instant petition for writ of habeas corpus in the Pulaski County Superior Court, which bore case no. 2017U-15279, pursuant to Article 2 of the state habeas corpus statutes.

As a direct result of the habeas court's failure and refusal to produce petitioner for a hearing in eight (8) days, pursuant to OCGA § 9-14-7, petitioner submitted a petition for writ of Mandamus, seeking the Court's compliance, to the Pulaski County Superior Court, naming, now Chief Judge, Sarah F. Wall, as the ~~only~~ primary respondent.

On April 11, 2017, Sarah F. Wall, P issued orders BOTH disapproving the filing of the mandamus petition and denying and dismissing the petition for writ of Habeas Corpus, on the merits, stating:

"Petitioner contends that the filing of her Notice of Appeal of the trial court's order denying her [statutory speedy trial] motion for discharge and acquittal operated as a supersedeas of her case and stripped the trial court of the necessary jurisdiction to enter a final order in her case or justify the imposition of a sentence following her [jury verdict]... this ground provides no basis for relief. See Appendix D to the petition for writ of Certiorari in case no. 19-5209

Petitioner filed a timely and legally sufficient Notice of Appeal in the Pulaski County Superior Court on May 5, 2017 and filed an Application for Certificate of Probable Cause in the Supreme Court of Georgia on April 30, 2017, in strict compliance with OCGA § 9-14-52.

Overra On June 26, 2017, the Court of Appeals of Georgia docketed case no. A17A1901, stemming from the Notice of Appeal filed on January 31, 2017 challenging the denial of the statutory speedy trial motion for discharge and acquittal. Said appeal was later dismissed alleging that petitioner had failed to file the appellant's brief on August 11, 2017. However, based on case records in the Court of Appeals of Georgia the appellant's brief was filed on August 9, 2017. Yet, no remittitur has been filed in the Gwinnett County Superior Court, in order that the trial court resume jurisdiction, leaving said appeal STILL PENDING.

On July 3, 2017, the Court of Appeals of Georgia docketed case no. A17A2056, stemming from the Notice of Appeal filed on February 3, 2017 challenging the VOID JUDGMENT rendered on February 1, 2017. Although BOTH appeals were assigned to the EXACT same panel of judges, the judges affirmed the convictions on June March 8, 2018 and a remittitur was later filed in the Gwinnett County Superior Court on May 15, 2018.

While the appeals and the application for certificate of probable cause were pending in the state courts, petitioners filed a JOINT Emergency Petition for Writ of Habeas Corpus in the United States District Court for the Northern District of Georgia on May 5, 2018. (See case no. 19-5209 in this Court) Said petitions were ultimately dismissed as having failed to exhaust state court remedies.

However, petitioner Ricardo Wimbush was removed from said petition for writ of certiorari.

In fact, petitioner Ricardo Wimbush filed his first instant state habeas corpus petition on October 18, 2017 in the Washington County Superior Court. Although the petition was finally heard on July 31, 2018, ~~only AFTER~~ filing for federal relief, ~~NO ORDER~~ has been issued, to date.

June 30

On ~~October 18~~, 2017, petitioner Therion Wimbush filed her second instant habeas corpus petition in the Pulaski County Superior Court, raising the exact same three grounds listed above. Said petition was denied on the merits on December 2, 2018 stating:

"Petitioner contends that the trial court lacked the jurisdiction to convict and sentence her because she filed a notice of appeal prior to sentencing... Petitioner filed a Notice of Appeal from the January 6, 2017 denial of her Motion for Discharge and Acquittal on January 30, 2017. The denial of a motion for acquittal on statutory speedy trial grounds is immediately appealable. See *Hubbard v. State*, 254 Ga. 694 (1985)... Petitioner did not file a notice of appeal until after the jury had returned a verdict. Petitioner's premise that the trial court was then divested of jurisdiction to [convict and] sentence her lacks merit. Following a conviction, a criminal defendant may appeal the conviction, sentence and pretrial issues such as the ~~motion~~ denial of a motion for acquittal in a single action... As petitioner had been convicted and sentenced, there was no error in remitting her into the custody of the Department of Corrections pending appeal. See Appendix "F" to petition in case no. 19-5209."

Petitioner filed her Notice of Appeal in the Pulaski

County Superior Court on December 10, 2018 and docketed her application for Certificate of Probable Cause in the Supreme Court of Georgia on December 28, 2018, in strict compliance with OCGA § 9-14-52. See Appendix E of petition in case no. 19-5209.

On June 18, 2018, the fourth term after docketing, the Supreme Court of Georgia granted the certificate of probable cause and, in the same order, vacated the habeas court's ruling on the merits, remanded the case back to the ~~trial court~~ habeas court with instructions to dismiss the habeas petition as PREMATURE, in case no. S17H1568 (2017V-15229).

It is that decision that is the subject in the petition for writ of certiorari in case no. 19-5209.

On August 19, 2019, the Supreme Court of Georgia granted the certificate of Probable Cause and, in the same order, vacated the habeas court's denial on the merits and remanded the case back to the habeas court with instructions to dismiss the habeas petition as PREMATURE, in case no. S19H0628 (2017V-15363).

Hence, petitioners show that they have ~~filed~~ not only exhausted state court remedies, even by filing repetitious petitions, but also by allowing the state's HIGHEST court, not one, but two rounds of appellate review, and moreover that the state court remedies have proven to be ineffective to protect their federal, constitutional rights. In fact, petitioners have sought and been denied federal relief in the district and appellate courts of the Eleventh Circuit.

LIST OF PARTIES

Recardo Wimbush, petitioner, is held in the custody of the Georgia Department of Corrections in the Washington State Prison in Davisboro, GA.

Therian Wimbush, petitioner, wife of petitioner Recardo Wimbush, is held in the custody of the Georgia Department of Corrections in the Pulaski State Prison in Hawkinsville, GA.

State of Georgia, respondent

Brian Kemp, respondent, is the Governor of the State of Georgia

Georgia Department of Corrections, respondent

Timothy C. Ward, respondent, is the Commissioner of the Georgia Department of Corrections

Jermaine White, respondent, is the warden of Washington State Prison

Willie Sue Mickens, respondent, is the warden of Pulaski State Prison

Christopher M. Carr, respondent, is the Attorney General of the State of Georgia
(for Notice purposes only)

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioners respectfully pray that a writ of habeas Corpus be granted.

JURISDICTION

The jurisdiction of this Court is invoked under 28 USC § 2254. (and/or 28 USC § 2241).

REASONS FOR NOT MAKING APPLICATION
TO THE DISTRICT COURT

Because this Court has no published authority addressing whether circumstances like petitioners' meet or excuse the exhaustion requirement, petitioners respectfully request that this Court exercise its supervisory power and settle the important federal question of what constitutes extraordinary, or the like, circumstances sufficient to overcome or waive the federal habeas exhaustion requirement.

Petitioners filed an instant habeas corpus petition pursuant to 28 USC § 2254 in the United States District Court for the Northern District of Georgia on May 11, 2018. Said petition was dismissed for failure to exhaust state court remedies, as Recordo Wimbush's ~~p~~ state petition was, and still is, pending and Therian Wimbush's state petitions were still pending in the habeas and Supreme courts of Georgia. See Appendix 'B' of petition in case no 19-5209.

In fact, the district court asserted that even

an eight (8) year delay in the disposition of a state petition was not too long. Petitioners appealed, applied for a certificate of Appealability in the United States Court of Appeals for the Eleventh Circuit, which denied said certificate stating that petitioners had failed to exhaust state court remedies as they had not waited long enough for disposition and that the filing of the state habeas which had been fully exhausted was premature. See Appendix 'A' of petition in case no. 19-5209.

Petitioners assert RARE, EXTRAORDINARY, and EXCEPTIONAL CIRCUMSTANCES in that

- (1) Their JUDGMENT OF CONVICTION is VOID ON ITS FACE, HAS NO LEGAL MERIT OR VALUE, due to the timely and legally sufficient filing of the Notice of Appeal challenging the directly appealable order denying their statutory speedy trial motion, filed January 30, 2017
- (2) The Appeal ~~stemmed~~ stemming from the January 30, 2017, notice of Appeal, case no. A17A1901, remains pending as no remittitur has been filed in the trial court in order that the trial court could resume jurisdiction
- (3) Hence, due to the fact that an appeal REMAINS pending, which preceded the VOID JUDGMENT of conviction, which the Court of Appeals of Georgia allegedly affirmed in a later appeal, ALL habeas petitions will remain PREMATURE.

Thus, there is no other existing adequate relief that can be obtained in any other form or from any other court, as said relief has been sought, in both the federal and state forums, and been denied.

STATEMENT OF CASE

On June 27, 2014, petitioners surrendered to the Gwinnett County Sheriff's Office at the Gwinnett County Detention Center, in response to criminal arrest warrants that had been issued, accusing them of the non-capital offenses of Cruelty to Children in the first degree part b, and False Imprisonment.

Both offenses are bailable before the court of inquiry under OCGA § 17-6-1, and, moreover, Uniform Superior Court Rule 26.1(H) requires that bail be set for said offenses NO LATER THAN the first appearance hearing.

Petitioners were promptly brought before a court of inquiry for first appearance hearing on June 28, 2014. However, the judicial officer refused to set bail in direct violation of U.S.C.R. 26.1H.

In fact, petitioners were held without bail despite repeated bond motions, three pretrial habeas corpus petitions filed in the Gwinnett County Superior Court, for which petitioners were NEVER brought before the habeas court in violation of OCGA § 9-14-7, three pretrial habeas corpus petitions filed directly in the Supreme Court of Georgia, three 28 USC § 2241 habeas corpus petitions filed in the United States District Court for the Northern District of Georgia, which were ALL denied for failure to exhaust state court remedies and a 28 USC § 2241 habeas corpus petition filed directly in this Court, thru two FRAUDULENT indictments and trial.

According to petitioners' Georgia Crime Information Center report obtained by the Gwinnett County Office of the District Attorney on November 5, 2014,

The Office of the District Attorney contacted the Georgia Bureau of Investigation on September 3, 2014 alleging that an indictment with two counts of cruelty to children in the first degree, part b, had been returned by the Gwinnett County Grand Jury on that date, September 3, 2014, and that the False Imprisonment offense had been amended.

However, the "TRUE" bill of indictment number 14-B-03660-5 reflects that said case had been allegedly presented before the grand jury on September 4, 2014, one day later.

As a direct result of this discrepancy, petitioners filed repeated motions and petitions for writ of Mandamus in the Gwinnett County Superior Court against District Attorney Daniel J. Porter, requesting the production of the grand jury transcripts of the alleged September 4, 2014 hearing, to verify the authenticity of the alleged "TRUE" bill of indictment, to no avail.

In fact, petitioners served Daniel J. Porter with a subpoena, by the Gwinnett County Sheriff's Office, to produce said grand jury transcripts at a scheduled case status hearing, and the case status hearing was continued without notice and the district attorney NEVER responded.

It wasn't until petitioner sent an Open Records request to the chief assistant district attorney Dan William Mayfield, prosecutor in their case, that he responded that NO TRANSCRIPTS of the Grand Jury hearing, allegedly held on September 4, 2014, existed.

On October 2, 2014, petitioners were produced for

arraignment where petitioner confirmed that all counsel were being relieved. The assigned judge, Karen E. Beyers, continued the arraignment with no set date.

On October 17, 2014, orders were filed, pursuant to U.S.C.R. 4.3, relieving all counsel from petitioner's case, leaving her to continue pro se.

On October 27, 2014, during the next subsequent, September 2014 Court term of Gwinnett County Superior Court, petitioner filed a timely and legally sufficient "Demand for Speedy Trial" in strict compliance with OCGA § 17-7-170.

The Gwinnett County Superior Court has four (4) Court terms per year:

- (1) September Term - begins 2nd Monday in September
- (2) December Term - begins 1st Monday in December
- (3) March Term - begins 1st Monday in March
- (4) June Term - begins 1st Monday in June

Petitioner's case was allegedly indicted in the June 2014 Term, and the Demand for Speedy Trial was filed in the next subsequent Court term in strict compliance with OCGA § 17-7-170.

There were juries impaneled and qualified to try petitioner's case during BOTH the September 2014 and December 2014 Court terms. The December 2014 Court term ended on February 27, 2015.

Petitioner's case did NOT proceed to trial during neither

the September 2014 nor the December 2014 court terms, thereby rendering a discharge and acquittal automatic.

It must be noted that on the same day that the Demand for Speedy Trial was filed, October 27, 2014, the court record reflects that a second arraignment was scheduled for November 6, 2014.

At the November 6, 2014 arraignment petitioner confirmed that both the judge and the prosecutor had been served with a copy of the Demand for Speedy Trial. In fact, the prosecutor ensured that petitioner, a pro se incarcerated litigant, fully understood the consequences of filing said Demand. See Exhibit 'A' to Application 19A141

On December 2, 2014, petitioner was produced in the courtroom for the first pretrial hearing where petitioner announced "READY FOR TRIAL" and the prosecutor announced "NOT ready for trial."

At this time judge, Karen E. Beyer, announced that she was denying petitioners' DEMAND for Speedy Trial, without any NOTICE or HEARING on the matter, essentially depriving petitioners of their statutory right to a speedy trial.

Petitioners filed a timely and legally sufficient Notice of Appeal on December 14, 2014, challenging the trial court's directly appealable denial of a statutory speedy trial.

TO DATE, no record on appeal was ever transmitted to the Court of Appeals for docketing of an appeal stemming from the Notice of Appeal challenging the denial of the statutory speedy

trial demand, thereby further demonstrating a denial of access to the courts and due process of law.

Several motions for discharge and acquittal, based on this statutory and constitutional right to a speedy trial, were filed, none were heard until ~~Aug~~ January 5, 2017.

On August 28, 2015, petitioners filed a Motion for Discharge and Acquittal pursuant to OCGA § 17-7-170. Said motion, among MANY others, was heard under a superseding indictment on January 5, 2017. See Appendix I of petition in case no. 19-5209.

It must be noted that after the December 2, 2014 pretrial conference, petitioners case was removed from the trial calendar altogether until AFTER judge Karen E. Beyers voluntarily recused herself on August 4, 2015, at such time that the first motions hearing was scheduled, in open court.

The next assigned judge Tom Davis held four (4) calendar calls: (1) September 29, 2015, (2) October 27, 2015, (3) December 1, 2015, and (4) May 3, 2016. At all four pretrial conferences petitioners announced "READY FOR TRIAL", while the prosecutor announced "NOT READY FOR TRIAL".

In fact, at the May 3, 2016 pretrial conference, petitioners confirmed that the then assigned judge, Tom Davis, had been having ex parte communications with the prosecutor, Dan W. Mayfield, in direct violation of U.S.C.R. 4.1. Petitioners moved that the court disqualify the

Gwinnett County District Attorney's office; said oral motion was denied. Petitioners then moved the court to dismiss the case for want of prosecution; said oral motion was denied. Petitioners, finally, moved the court, judge Tom Davis, to recuse himself; said motion was denied.

Within hours of the pretrial conference, judge Tom Davis voluntarily recused himself from petitioners' cases, by written order, pursuant to U.S.C.R. 25-7.

The next assigned judge Kathryn M. Schrader scheduled a case status hearing and a motions hearing. However, once petitioners had the various witnesses that they intended on calling, Karen E. Beyers, Tom Davis, Daniel J. Porter, Don W. Mayfield, and others served by the with subpoenas by the Gwinnett County Sheriff's Office, petitioners were not produced for the status hearing and was later served with an order of continuance with no rescheduling date.

It must be noted that during the May 3, 2016 pretrial conference, judge Tom Davis announced that petitioners' case would proceed to trial in July 2016.

Subsequently, petitioners filed three pretrial habeas corpus petitions in the Gwinnett County Superior Court pursuant to OCGA § 9-14-1 and all three (3) petitions were assigned to the assigned judge in the criminal case, Kathryn M. Schrader.

- (1) July 14, 2016
- (2) August 3, 2016
- (3) October 10, 2016

Petitioners were NEVER produced in the habeas court, in violation of OCGA § 9-14-7, and all habeas cases remained pending until after trial, VOID conviction and unlawful subjection to forced slavery. All three petitions were denied and dismissed on March 16, 2017, after petitioner filed her first instant state habeas corpus petition in Pulaski County Superior Court.

Petitioner had also submitted Petitions for Mandamus to the Gwinnett County Superior Court with Daniel J. Porter as a respondent in one requesting a copy of the Grand Jury transcripts from September 4, 2014 and one with Kathryn M. Schrader as a respondent requesting that she produce petitioners before the habeas court. Said petitions were submitted on September 9, 2016.

However, the Gwinnett County Superior Court did NOT file said Mandamus petitions until February 28, 2017, AFTER trial, VOID conviction and unlawful subjection to forced slavery.

After filing a petition for writ of habeas corpus in the United States District Court for the Northern District of Georgia, case no: 1:16-cv-3950, (while case no.'s 1:16-cv-1961, 1:16-cv-1962 were on appeal) on October 20, 2016, the Gwinnett County Grand Jury allegedly returned a superseding "true" bill of indictment on November 2, 2016.

It must be noted that the prosecutor in the criminal case, Don W. Mayfield filed an answer in the federal habeas prior to the filing of the superseding indictment. Said indictment, once again, jointly indicted petitioners, now accusing them of seven (7) counts of cruelty

to children in the first and second degrees and adding a new victim.

It must be noted that the ~~only~~ ONLY alleged grand jury witness, Felicia Charchill was no longer an officer, and could not provide ANY testimony as it related to the alleged new victim.

Nevertheless, no new arrest warrants were issued concerning the alleged new victim.

According to argument provided by the prosecutor, Dan W. Mayfield at a motions hearing, he, himself, wrote the new indictment, took it before the grand jury, a true bill was returned and no COURT REPORTER was there. Said grand jury hearing allegedly occurred on November 2, 2016, returning indictment number 16-B-04000-3. The prosecutor also directed the clerk to file said indictment with Judge Kathryn M. Schrader, who at that time was the subject of a Motion to Recuse in the original indictment.

Once again, according to petitioner's Georgia Crime Information Center Report, the Gwinnett County Office of the District Attorney contacted the FBI on October 31, 2016 alleging that an indictment, with seven(7) counts of both offenses of Cruelty to Children in the first and second degrees, had been returned by the Gwinnett County Grand Jury on that date, October 31, 2016.

However, the "True" bill of indictment number 16-B-04000-3 reflects that said case had allegedly gone before the Grand jury on November 2, 2016, Two DAYS Later.

Petitioners raised this discrepancy in the December 2016 motions hearing where the prosecutor Dan W. Mayfield responded that he "PERSONALLY" divided out the two counts, added the second victim, drew up the new indictment, took it before the Guinnett County Grand Jury, obtained a "TRUE" bill of indictment and that NO COURT REPORTER was present at said hearing in response to petitioners request for transcripts of said hearing to verify the authenticity and validity of said "true" bill of indictment. Hence, this second, now superseding, indictment was also FRAUDULENT.

Before petitioners were served with a copy of the new indictment, petitioners were made aware by family members who had seen the prosecutor Dan W. Mayfield, on the news discussing this new indictment on election night, November 8, 2016. It must be noted that the Guinnett County Detention Center forbids detainees from watching the news.

Nevertheless, upon hearing and receiving this information from family, petitioners immediately prepared and filed various pretrial motions that had already been filed in the original indictment, including a Statutory Demand for Speedy Trial, on November 14, 2016.

In fact, petitioners were not served with a copy of the new indictment until December 15, 2016, at the initially attempted arraignment on the new, Fraudulent superseding indictment.

It must be noted that at this time, NO PRETRIAL MOTIONS from the original indictment had been heard and said motions were at that time not

than two years old. Yet, the trial court was able to hear ALL motions within TWO DAYS and trial was scheduled for January 23, 2017.

The final motions hearing was held on January 5, 2017, where amongst other dated motions, petitioners' August 2015 Motion for Discharge and Acquittal pursuant to OCGA § 17-7-170 was heard and orally denied.

Based on court records, this oral denial was reduced to writing, signed by the judge and filed with the clerk on January 6, 2017, activating petitioners' right of direct appeal pursuant to Hubbard v. State, 254 Ga 644 (1985) and OCGA § 5-6-38(a). However, petitioners were not served with a copy of the order denying said statutory speedy trial motion until the first day of trial when petitioners demanded that the court issued a written order on all motions, as all ~~petitioners'~~ of petitioners' pretrial motions had been denied and all the state's pretrial motions had been granted.

Thus, petitioners trial commenced on January 23, 2017, and on this same day when petitioners were escorted into the courtroom by the Fanning County Sheriff's Office, the order denying the statutory speedy trial motion for discharge and acquittal was buried in a stack of order that were already sitting on the table in the courtroom.

Petitioners trial ended on January 27, 2017. It must be noted that, again, petitioners were still held in the Fanning County Detention Center WITHOUT bail from the date of their

surrender on June 27, 2014 and has NEVER been released from confinement, thus, petitioners had NO WAY of obtaining the order of denial, or even having knowledge of the written, signed and filed order of denial, prior to the Court serving it on them on the first day of trial, just eight (8) days before their ap. direct appellate right expired.

It must also be noted that both petitioners were pro se litigants from arraignment of the original indictment, all the way thru the superseding indictment, thru trial and appeals.

On the same day that trial ended petitioner submitted the Notice of Appeal of the denial of her Statutory Speedy trial motion for discharge and acquittal in the U.S. Mail to the clerk and the district attorney. Said Notice of Appeal was filed in the Gwinnett County Superior Court on January 30, 2017.

On this same date, January 30, 2017, the Gwinnett County Superior Court made their oral sentencing pronouncement. Said oral pronouncement was NOT reduced to writing, signed by the designated judge, Deborah K. Fuller, until two days AFTER jurisdiction had been conferred on the the Court of Appeals of Georgia, on February 1, 2017. At such time the Court of Appeals of Georgia had sole jurisdiction of petitioner's criminal case, rendering said judgment VOID on its face.

To exacerbate the gross denial of due process, the Gwinnett County Superior Court EXECUTED the VOID JUDGMENT just TWO DAYS AFTER it was rendered, on February 3, 2017, by transferring

petitioner to the custody of the Georgia Department of Corrections for unlawful subjection to forced slavery.

Moreover, on that same day, February 3, 2017, petitioners filed a Notice of Appeal challenging the oral pronouncement of the judgment of conviction and sentence, as petitioners were not served with a copy of the final disposition, filed on February 1, 2017, until March 2017, after having requested court records.

Additionally, petitioners were not served with a copy of order nolle prosequi the original indictment filed January 17, 2017, until March 2017. However, petitioners had requested a copy of the case history report for both indictments, 14-B-03660-5 and 16-B-04000-3, AFTER having been transferred to the custody of the Department of Corrections, in February 2017. In fact, petitioner filed a timely and legally sufficient Notice of Appeal challenging the nolle prosequi of the original indictment on February 14, 2017.

On March 21, 2017, case no. A17A1379 was docketed in the Court of Appeals of Georgia with a grossly INCOMPLETE case record and petitioners moved the Court of Appeals to issue an order directing the clerk of Gwinnett County Superior Court to transmit the complete case record for case no 14-03660-3, to no avail.

On ~~AUGUST 14~~ May 8, 2017, appeal no. A17A1379 was dismissed, yet no remittitur was issued until May 15, 2018, the same day that remittiturs were issued for case appeals A17A1901 and A17A2056.

On June 16, 2017, appeal no. A17A1901 was

docketed in the Court of Appeals of Georgia with an INCOMPLETE case record. After requesting that the Court issue an Order directing the trial court to transmit the COMPLETE case record and being denied, petitioners obtained two extensions of time to file the appellate brief and filed said brief on August 9, 2017.

However, the Court of Appeals of Georgia dismissed the appeal on August 11, 2017 alleging that petitioner had abandoned the appeal by not filing the appellant's brief.

Appeal no. A17A1901 is the appeal stemming from the January 30, 2017 Notice of Appeal challenging the January 6, 2017 denial of petitioners' statutory speedy trial motion for discharge and acquittal.

On July 3, 2017, appeal no. A17A2056 was docketed in the Court of Appeals of Georgia, and was assigned to the same three judges, M. Yvette Miller, Sara Doyle, and Clyde Reese. Appeal no. A17A2056 is the appeal stemming from the February 3, 2017 Notice of Appeal challenging the otherwise VOID JUDGMENT of conviction and sentence, filed the February 1, 2017, at such time that the Gwinnett County Superior Court lacked jurisdiction over case 16-B-04600-3.

It must be noted that the Notice of Appeal filed December 14, 2014 in the original indictment challenging the DIRECTLY APPEALABLE denial of petitioners' Demand for Speedy Trial filed on October 27, 2014 which guaranteed that either case no. 14-B-03660-3 was tried by February 27, 2015 or petitioners would be AUTOMATICALLY discharged and acquitted, pursuant to OCGA §17-7-170.

On March 8, 2018, the Court of Appeals of Georgia

abandoned well established federal and state law by AFFIRMING the VOID JUDGMENT of conviction and sentence. Petitioners assert that like a previous appeal in the Court of Appeals case no. ~~ATX~~ A16A1410, A16A1411, that the judges in the Court of Appeals of Georgia NEVER touched said appeal and that the alleged opinion of the Court of Appeals is FRAUDULENT.

Thus, petitioners assert a denial of access to the appellate court forum in the state of Georgia.

Petitioners further assert that the petitions for writ of habeas corpus ~~filed~~ which were filed in the Supreme Court of Georgia case no.'s S17H1568, S19H0628, and S19H1621, among other cases filed directly in the Supreme Court of Georgia, were NEVER touched by the Justices of the Supreme Court of Georgia, thereby rendering any subsequent orders FRAUDULENT.

Petitioners assert that based on cases, even legal precedence established by the Supreme Court of Georgia in *Wetherington v. State*, 295 Ga 172 (2014), *Talbert v. State*, 296 Ga 357 (2014), *Chambers v. State*, 262 Ga 200 (1992), *Scruggins v. State*, 288 Ga 346 (2010), that the Supreme Court of Georgia Justices would have summarily REVERSED the VOID CONVICTIONS and ordered an IMMEDIATE RELEASE of petitioners from illegal, unlawful, unconstitutional confinement.

CONCLUSION

Petitioners respectfully request that this Court GRANT the Great Writ of Habeas Corpus and order their IMMEDIATE RELEASE from UNLAWFUL, UNCONSTITUTIONAL confinement.

**Additional material
from this filing is
available in the
Clerk's Office.**