

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

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KERRY CRAIG WALKER,

Plaintiff,

v.

Cherokee County,
Sheriff Roger Garrison,
Preston Peavy, ET AL,

Defendant.

NOTICE OF APPEAL
ARGUMENT

CIVIL ACTION
FILE NO. 07-CV-3325

**ARGUMENT FOR APPEAL AND RESPONSE TO ORDER ON
MOTION FOR JUDGMENT ON THE PLEADINGS**

Complaint

Plaintiff's name is Kerry Craig Walker and on September 16, 2001 he was the victim of a violent crime by an unbalanced female (Wagner), a violent beating, and then attacked again in his own home—then he was falsely arrested as the perpetrator.

Plaintiff was arrested and charged with simple assault, simple battery, and obstruction of a 911 call (Case No.02-CR-0053) —All crimes that he did not commit and that were in fact committed against him. Plaintiff filed an Incident Report the same day of the incident and the false accuser (Wagner) did not file an Incident Report until four days later. Then because Detective Preston Peavy ignored the only witness at the scene and then went on to ignore, alter, and tamper with virtually every

piece of exculpatory evidence. Plaintiff's false charge of misdemeanor simple assault was upgraded to felony aggravated assault by a Grand Jury who was presented nothing but tainted evidence by a very crooked detective.

The first Indictment (Case No. 02-CR-0053) was nolle prossed (dismissed) and Plaintiff was eventually re-indicted with an additional false charge added to the list of charges. This nightmare of injustice went on for over four years (Case No. 02-CR-1029), and finally on November 23, 2005 all of the charges against Plaintiff were formally dismissed by the State of Georgia by the Honorable Judge Jackson Harris.

During the 50 months of trying to prove his innocence Plaintiff suffered financial, emotional and physical trauma as a result of his false arrest and the continuous efforts by Defendant Peavy to manufacture Plaintiff's guilt. Plaintiff's life has been ruined as a result of Defendant Peavy's actions and the actions of officials who covered for him. Defendant Peavy's demented actions, and the actions of those who covered for him, killed Plaintiff's very dear and patriotic mother. Other loved ones also suffered, and they continue to suffer, as the result of this incredible case of injustice and malfeasance. Plaintiff lost his 4800 square foot custom home that he personally designed and physically built on one of the most beautiful lots in the South East at the corner of the Etowah River and Lake Allatoona. Plaintiff lost several hundred thousand in assets and virtually everything he owned and continues to suffer to present day because of the unjust, unethical, illegal, and corrupt actions brought against him by Preston Peavy and those that covered for his unlawful actions.

Defendant Peavy tainted the investigation by never interviewing the only witness at the scene and by willfully ignoring evidence that gave credence to Plaintiff's

innocence and clearly showed that Plaintiff was the victim of crimes and the perpetrator of none. Defendant Peavy had a professional transcriber alter a transcript that exonerated Plaintiff, and this can be proven in court. Defendant Peavy then "misplaced" and later "lost" this tape containing the exculpatory statements by the false accuser. Defendant Peavy had the transcript from a recording of a two way conversation altered to appear as a one sided statement by Plaintiff. A few months later Defendant Peavy came to Plaintiff house to seize his crossbow and he ignored Plaintiff when he pointed out a thick layer of dirt, dust, and grime that had accumulated on the shaft of Plaintiff's crossbow, that showed, by "mathematical certainty" that this crossbow could not have been cocked and loaded as the false accuser claimed. Plaintiff is an archery expert and an archery champion, and in the proper care of a crossbow the shaft is "waxed" in order to prevent wear on the string. If the crossbow is not used over a long period of time, this allows dust to accumulate and for dust to stick to this wax and to remain in a stable environment. Dirt, dust, and grime had accumulated on this wax in such a way that it would have had to have been physically cleaned off to remove it. Plaintiff has an "expert witness" who saw this crossbow after the alleged incident and who will testify to the fact that this crossbow could not have been cocked or loaded as was alleged.

Defendant Peavy continued to sustain his deceit and tainted evidence until Plaintiff finally won the long battle and the State finally dismissed all charges against him. The final act of malfeasance came when Plaintiff collected his crossbow from Evidence Control, and found that the Record of the Chain of Command for this critical piece of evidence had been manipulated to leave a blank space in the line by

the date just before the trial date where Plaintiff and Attorney Jeff Rusbridge noticed that the 1/8 inch thick layer of dust on the shaft had been cleaned off. This eliminated evidence that would lend proof to who tampered with this evidence, and who wiped off this thick layer of dirt, dust, and grime that had become the crux of Plaintiff's defense.

Plaintiff suffered such fear for his life that he slept little during the course of the four years of these intense pressures against him and he rarely took the time to brush his teeth in his constant and persistent battle against these wicked evil government officials who were trying to put Plaintiff in prison for 20 to 30 years. Plaintiff fought continuously and relentlessly for 50 months to prove his innocence and Plaintiff recorded every phone call and every meeting with anyone regarding this case. No one should have to endure a tragedy such as this in the United States of America.

Argument and Response

Plaintiff hereby submits an argument for appeal on the **Order On Motion For Judgment On The Pleadings** so ordered on the 25th day of February, 2010 and from each and every part thereof.

The judge's Order states:

"The remaining Defendants seek an order dismissing this action pursuant to OCGA § 9-11-12(c) on the grounds that the Plaintiff's pro se complaint fails to state a claim on which relief may be granted as the statute of limitations has expired for his claims."

There were not any "remaining Defendants" because Senior Superior Court

Judge W.A. Foster, III was removed from this case before his rulings were completed, and therefore his dismissal is not valid. This judge was removed from this case because of an order by Governor Sonny Perdue barring Senior Superior Court judges from hearing such cases. Plaintiff's complaint cites the governor as a player in the cover up and Plaintiff has documented proof of such a cover up by Governor Sonny Perdue and it became clear that this judge was not going to dismiss Plaintiff's lawsuit against the remaining defendants. It is also clear that the statute of limitations claim was not cited by Judge W.A. Foster, III, nor was it cited by Judge Oliver Harris Doss, Jr. during the two years that they had this case.

The Order further states:

"The pro se Plaintiff did not file a response to this motion."

The pro se Plaintiff did file a response to a similar motion and he did file a response to this motion in his documents sent to Judge Miller, when this third judge that the State found for this case had not been forwarded any of the many documents, letters, Incident Reports, analysis of Incident Reports, analysis of Nolle Prossed Indictment, transcripts, arguments, complaints, and pleadings that were filed in the Superior Court of Cherokee County. These documents are also posted on a website provided to the judge, whereas apparently none were viewed by him.

The Order further states:

"For the following reasons, the Defendants' Motion is **HEREBY GRANTED** with respect to all damage and civil rights claims, and **HEREBY DENIED**, as to

Plaintiff's expungement claim."

This Order granting Defendants' Motion is in error because the statutes do not apply as stated. Since the judge denied the pleadings as to Plaintiff's expungement claim, thus giving Plaintiff the right to seek expungement, it becomes clear that the Plaintiff's complaint is valid and Plaintiff's case should be presented in court. Plaintiff has a right to have his case heard by an impartial jury.

The Order further states:

"Motion for Judgment on the Pleadings Standard

OCGA §9-11-12(c) states:

"Motion for judgment on the pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Code Section 9-11-56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Code Section 9-11-56."

Plaintiff filed a lawsuit on November 20, 2007 and since that time there have been dozens of filings made, some very lengthy, on this case and recorded in the Superior Court of Cherokee County. The preceding statement above is nothing but

legal jargon used to avoid the truth about this case. It was clear in the Plaintiff's RESPONSE TO TELEPHONE CONFERENCE AND UPDATE ON CASE INFORMATION FOR JUDGE MURPHY C. MILLER, and in the recorded conversation during said conference, that Judge Miller was not forwarded any of the many documents related to this case over the course of two judges assigned to this case during a time span of about two (2) years. Judge Miller, by his own admission, received nothing but the order transferring this critical, important, and valid case to him.

The Order further states:

"Judgment on the pleadings may be granted only if, on the facts as so admitted the moving party is clearly entitled to judgment. Seaboard Coast Line R.R. v. Dockery, 135 Ga. App. 540, 218 S.E.2d 263 (1975); Christner v. Eason, 146 Ga. App. 139, 245 S.E.2d 489 (1978). A motion for judgment on the pleadings may be granted if the complaint is time barred. Braden v. Bell, 222 Ga. App. 144, 473 S.E.2d 523 (1996)."

Plaintiff's criminal case was adjudicated for well over four (4) years, yet Plaintiff was denied his right to due process, and Plaintiff was denied his right to a fair trial during the criminal case against him. Plaintiff was denied his right to hearings to look into who tampered with the evidence in his case and to bring his facts to light and to have his story heard in court. Plaintiff has pursued his legal right to a trial by jury in his civil case (No. 07-CV-3325) for well over two (2) years. Plaintiff has been denied any access to the courts to present his side of the story, and

to present the witnesses, recordings, videos, and documents that support the clear truth of his claim and that support a claim from which relief could be granted.

The Order further states:

“In the interest of judicial economy, it is practical for a trial judge to enter judgment on the pleadings as to one count of a complaint if such count is subject to the motion, even though movant [sic] may not be entitled to such judgment as to all counts. First Nat'l Bank v. Osborne, 233 Ga. 602,212 S.E.2d 785 (1975).”

The statement above cites legal rhetoric that does not pertain to the Plaintiff's complaint or the actuality of the Plaintiff's case and is therefore not valid.

The Order further states:

“A motion to dismiss a complaint, including a civil rights complaint, for failure to state a claim upon which relief can be granted is subject to a very strict standard. A pro se complaint is not held to stringent standards of formal pleadings and the complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Johnson v. Jones, 178 Ga. App. 346 (1986).”

The statement above is clearly a contradiction. The case law clearly states that a pro se litigant is not held to the stringent standards of an attorney, yet because

Plaintiff no longer has money to afford an attorney, he is denied due process because of this fact.

A pro se complaint, “however inartfully pleaded,” must be held to “less stringent standards than formal pleadings drafted by lawyers” and can only be dismissed for failure to state a claim if it appears “beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” Id., at 520-521, quoting Conley v. Gibson, 355 U.S. 41, 45-46 (1957). HUGHES v. ROWE ET AL., 449 U.S. 5, 101 S. Ct. 173, 66 L. Ed. 2d 163, 49 U.S.L.W. 3346. **Petitioner's complaint was not prepared by counsel. It is settled law that the allegations of such a complaint, “however inartfully pleaded” are held “to less stringent standards than formal pleadings drafted by lawyers,”** see Haines v. Kerner, 404 U.S. 519, 520 (1972). See also Maclin v. Paulson, 627 F.2d 83, 86 (CA7 1980); French v. Heyne, 547 F.2d 994, 996 (CA7 1976). **Such a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief.** Haines, supra, at 520-521. **And, of course, the allegations of the complaint are generally taken as true for purposes of any motion to dismiss as might be put forth by Defendant.** Cruz v. Beto, 405 U.S. 319, 322 (1972).

The story told, and the facts and witnesses in Plaintiff's complaint hold true, and therefore Plaintiff should be given his day in court and Plaintiff's case should be presented to a jury.

The Order further states:

"The Statute of Limitations Standard

The applicable statute of limitation in this case for the false arrest, malicious prosecution and the 42 USC § 1983 claims, being injuries to the person of the Plaintiff, is two years.

OCGA § Section 9-3-33 provides.

"Actions for injuries to the person shall be brought within two years after the right of action accrues, except for injuries to the reputation, which shall be brought within one year after the right of action accrues, and except for actions for injuries to the person involving loss of consortium, which shall be brought within four years after the right of action accrues."

Plaintiff is clearly within this two year statute of limitations. Plaintiff filed said lawsuit on November 20, 2007 and Plaintiff's long nightmare, by all accounts, did not end until a formal dismissal of all charges by the Honorable Judge Jackson Harris on November 23, 2005.

The Order further states:

"FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Plaintiff filed the present lawsuit against Cherokee County Georgia, Sheriff Roger Garrison, Preston Peavy, and the Cherokee County Sheriff's Department. The

gist of the numerous tort claims made by this pro se Plaintiff in his 'Demand for Injunctory [sic] Relief of 20 Million Dollars.' a 25 page pleading filed November 20, 2007. is that he was falsely arrested on September 25, 2001 and thereafter wrongfully prosecuted in Superior Court, as a result of an improper investigation by Defendant Peavy."

Plaintiff did file a pleading on said date, but the pleading was much longer than 25 pages in that it included many exhibits. This was not merely an "improper investigation by Defendant Peavy," but rather a tainted, malicious, and one sided investigation by Defendant Peavy. Defendant Peavy falsely arrested Plaintiff, when the evidence clearly showed that he was the victim of violent crimes. Although the witness at the scene, Drew Mayo, was never interviewed, and Mr. Mayo's statements would have shed light on the facts of Plaintiff's innocence, all other evidence outside of Mr. Mayo's statements cleared Plaintiff of any wrong doing. The fake crime report filed by the false accuser was full of nothing but lies, and it contradicted virtually every statement the false accuser made in her interview with Defendant Peavy and her story changed drastically; even the locations and jurisdiction of the alleged incidents changed to other locations and to different jurisdictions. Yet Defendant Peavy still had Plaintiff arrested. Once Plaintiff was arrested, Defendant Peavy ignored, altered, and manipulated every piece of exculpatory evidence in his efforts to manufacture Plaintiff's guilt and to convict Plaintiff, who was in fact the actual victim of physical violence, domination, threats, and control. The false accuser threatened Plaintiff, telling him that she was going to frame him and that all of his money would not get

him out of it.

The Order further states:

“Peavy was at the time of Plaintiff’s arrest employed as an investigator in the Cherokee County Sheriff’s office. The Plaintiff alleges that Peavy was the actual perpetrator of the malfeasance against him, and other government employees and officials, including Sheriff Garrison, covered up a nightmare of injustice. It is part of the Plaintiff’s case to expose the corruption he sees in the criminal justice system. He also seeks to have his record cleared pertaining to his arrest and information concerning the criminal case expunged from the records.”

Defendant Peavy was in fact a detective at the time of Plaintiff’s arrest, but because of this case Defendant Peavy was “demoted” to “Uniform Patrol” and he later resigned from the force before returning at some later date. Plaintiff has recorded evidence that lends proof to the fact that other officers of the State covered up for Defendant Peavy’s illegal actions, and Sheriff Roger Garrison was made fully aware of Defendant Peavy’s illegal actions and Defendant Garrison did nothing to investigate Defendant Peavy’s evil actions or to curtail them. In filing a lawsuit against Defendant Peavy, who worked for Sheriff Roger Garrison, Plaintiff would be legally obliged to name Sheriff Roger Garrison as a defendant in said lawsuit.

The Order further states:

“The Plaintiff was charged in Cherokee County Superior Court in Case numbers 02-CR-0053 and 02-CR-1029 with criminal offenses.”

The statement above is incorrect. Plaintiff was falsely charged in Cherokee County State court in Case number 02-CR-0053, and this case was moved to the Cherokee County Superior Court only after a Grand Jury indicted Plaintiff based entirely on tainted evidence presented to them and where all exculpatory evidence was withheld. As stated before, this case (02-CR-0053) was nolle prossed (dismissed) and Plaintiff was falsely re-indicted in case number 02-CR-1029.

The Order further states:

“The Plaintiff was involved in an incident on September 16, 2001. It is alleged that on September 19, 2001 a false incident report was filed by one Jackie Wagner. Peavey was assigned to investigate the incident and came to the Plaintiff's residence. Plaintiff alleges that Peavy attempted to manufacture his guilt in order to get a conviction. The Plaintiff was arrested on September 25, 2001 on misdemeanor charges. Evidence, including a cross bow and arrows were seized from the residence of the Plaintiff. The Plaintiff would later contend that law enforcement tampered with one of the seized arrows to remove important exculpatory evidence.”

The above statement is incorrect. Plaintiff was involved in an incident on September 16, 2001 where Plaintiff was the victim of brutal physical violence, domination, and control, by a very unbalanced female. Plaintiff sustained a severely blackened eye, a severely bruised sternum, and a bruised left bicep. Plaintiff was continuously tormented, and threatened and then attacked again in his own home by having fingers jabbed by Wagner into his already severely bruised chest. When the crossbow was seized by Defendant Peavy, Plaintiff attempted to point out exculpatory evidence, but the crossbow was violently yanked from Plaintiff and this important exculpatory evidence was ignored by Defendant Peavy. Plaintiff never contended that law enforcement tampered with one of the seized arrows. The bolts (arrows) are attached to the crossbow, and it was with said crossbow that Plaintiff has proof of tampering, and NOT the arrows. Because other exculpatory evidence had been eliminated by Defendant Peavy up until this point, this thick layer of dirt, dust, and grime that had accumulated over several years on the shaft of this crossbow became critical evidence in Plaintiff case, involving an expert witness, yet this Order has this critical fact all wrong.

The Order further states:

“The Plaintiff went to trial on or about November 19, 2002 before Judge Sumner. The result of this trial is unclear, but it is alleged that Case 02-CR-0053 was nolle prossed.”

The above statement is untrue. The result of this trial was very clear. It ended after Attorney Jeff Rusbridge pointed out that someone had tampered with the evidence. This was a felony case, and evidence tampering would have involved the crime of Felony Tampering with Evidence. Although Judge Sumner alluded to having some Chain of Custody hearings, no such hearings ever took place. In fact no hearing took place. It was not until some two and one half (2 1/2) years later, after Plaintiff requested his charges be dismissed, that Plaintiff received a letter from the District Attorney, Garry Moss, with a new date for trial. Plaintiff went to some half dozen trial calendar calls, but the State would never give Plaintiff his day in court, knowing full well that a trial would reveal the facts of corruption, malfeasance, evidence tampering, malicious prosecution, and a cover up by government officials.

The Order further states:

“On December 19, 2005 an Order of Dismissal was entered by Judge Harris on Accusation No. 02-CR-1029.”

The statement above is incorrect. This date is incorrect. It was on November 23, 2005 that an Order of Dismissal was entered by Judge Harris on Case No. 02-CR-1029. Plaintiff did not receive this Order of Dismissal via U.S. Mail until December 19, 2005, some two weeks after the death of his mother.

The Order further states:

“A Motion to Dismiss for Want of Service and a Motion for More Definite Statement were filed on December 27, 2007. The Motion for Judgment on the Pleadings was filed on July 31, 2009. The Plaintiff did not file any responses to these motions. The Plaintiff did dismiss the Cherokee Family Violence Center as a defendant on March 19, 2008.”

Plaintiff contends that this statement above is false. Plaintiff did file a response to this motion filed on December 27, 2007 and Plaintiff did file a More Definite Statement of Claim and these have been filed with the clerk of court. Plaintiff has struggled to survive, and Plaintiff has been homeless and forced to live in a tent, in a boat, and in a shed, and it has been difficult to always respond in a timely manner. Plaintiff did not immediately respond to the Motion for Judgment on the Pleadings because these documents contained similar legal rhetoric that Plaintiff had responded to before, and Plaintiff was struggling to survive. Judge Doss, for reasons unknown, was removed from handling Plaintiff's lawsuit, and Plaintiff did respond to Motion for Judgment on the Pleadings in documents sent to Judge Miller and these documents were filed with the clerk of court. The Plaintiff did dismiss the Cherokee Family Violence Center as a defendant on March 19, 2008, because Plaintiff was in error in naming them as a defendant.

The Order further states:

“On April 23, 2008 the Court through Senior Superior Court Judge W.A.

Foster, III entered a dismissal on the Plaintiff's claims against Judge Sumner and the District Attorney Garry Moss on sovereign immunity grounds."

Again, it should be addressed that Judge W.A. Foster, III was removed from handling Plaintiff's lawsuit and this dismissal is legally invalid. The complex immunity laws in Georgia are evidence of a State that covers up for unethical, corrupt, and criminal actions by Officers of the State or by government officials. These bizarre and complex immunity laws are on the wane in this great country.

The Order further states:

"A review of the pleading fails to reveal any showing that Sheriff Garrison was actually involved in any alleged constitutional deprivation or exercised any control or direction over the alleged Constitutional deprivation. Gilmer v. City of Atlanta, 774 F.2d 1495 (11 th Cir. 1985). Furthermore, there has been no showing that Cherokee County had any policy, practice or custom that allegedly deprived the Plaintiff of a constitutional right, nor any causal link: between any such policy practice or custom leading to his arrest and prosecution. Monell v. Department of Social Services, 436 U.S. 658 (1978)."

The only reason that Plaintiff has failed to reveal any showing on many facts of this case is simply because Plaintiff has not been able to present his side of the story or the evidence that he has in this case. No hearings have been set and none have been heard. Plaintiff has clear evidence of constitutional deprivation. Plaintiff has clear

evidence that Cherokee County had policy, practice and custom that deprived Plaintiff of his constitutional rights. Plaintiff has clear evidence that because Plaintiff emphatically rejects religion, that he was targeted unjustly and maliciously during his arrest and prosecution. Plaintiff has evidence that he was labeled an "atheist" by many in the town of Canton Georgia, and by the prosecution because of his rejection of organized religions. Plaintiff also has proof that this orthodox Christian town could care less about what happened to him or his loved ones. But to date, no hearing has been set to give Plaintiff the opportunity to present his side of the story or the evidence he has to support his claims.

The Order further states:

"It also appears that the Cherokee County Sheriff's Department is not a legal entity capable of being sued. Shelby v. City of Atlanta, 578 F. Supp. 1368 (N.D. Ga. 1984). However it is an "original agency" for the purposes of OCCA 35-337, the expungement statute."

The statement above is a contradiction in terms. This is more legal rhetoric that does not pertain to the actuality of Plaintiff's case. It is odd that the Cherokee County Sheriff's Department is "not a legal entity" and therefore does not exist and cannot be sued. Yet, at the same time, it is an "original agency" that can falsely arrest a good human being and then RAILROAD him in order to get a conviction and put him in prison for 20 or 30 years for crimes he did not commit, and when he was in fact the

victim of violent crimes. And it is an "original agency" for the purpose of Plaintiff's expungement right.

The Order further states:

"The Plaintiff argues that the Defendants "continuing corruption" somehow avoids the statute of limitations on the damage and/or tort claims. Even applying very liberal pleading requirement to these claims, the Court can find no legal authority or precedent to support this conclusory legal position."

The statement above is untrue. Plaintiff has never been concerned with the statute of limitations, as he is aware that said lawsuit was filed within the two years required. Plaintiff merely points out for the sake of argument that the corruption and cover up for the truth of this case continues to date and will obviously continue in well to the future.

The Order further states:

"As to the expungement claim by the Plaintiff, the Court finds that the Plaintiff *may* be entitled to expungement per OCGA 35-3-37. It does not appear from the pleadings that the Plaintiff followed the necessary steps to apply for expungement pursuant to the applicable code section. The court directs the Plaintiff, should he still desire to seek expungement of the subject arrest, to make his request in writing to the original agency having custody or control of the records (the Cherokee Sheriff's Department)

to expunge their records and notify GCIC. The Cherokee County Sheriff's Department will supply any necessary forms to the Plaintiff. After determination by the agency on the expungement request, the Plaintiff will have 30 days to appeal the decision to this court. The court shall thereafter conduct a de novo hearing and may order such relief as it finds to be required by law. Should the Plaintiff not pursue this remedy within sixty days from the date of this order, upon application by the attorney for the Sheriff's office, and with notice to the Plaintiff for an opportunity to respond, the final remaining claim of expungement of the arrest record may stand dismissed, without prejudice."

Plaintiff is grateful for Judge Miller's permission to seek expungement for his arrest for crimes he did not commit, and where, in truth, he was in fact the VICTIM. Plaintiff strongly suggests that we begin to question the culture we live in when a person could be the victim of violent crimes and then falsely arrested and then convicted as the perpetrator because of a narcissistically sick man that happens to be an officer of the State. But for the grace of this intelligence from going beyond *self* and this Energy behind all Creation, this could have happened to Plaintiff.

The Order further states:

"In the recent Supreme Court decision of Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955 (May 21, 2007) the United States Supreme Court held that a Plaintiff must plead a plausible, rather than merely a conceivable claim, and a complaint will not survive

simply because there is some conceivable set of facts which would entitle the Plaintiff to relief. This court notes there is an absence of factual allegations supportive of the alleged corruption, conspiracies and civil rights violations charged by the Plaintiff in this case. However, this Court has applied the liberal Johnson v. Jones standard to the claims of the Plaintiff.

The statement above is an abomination of the truth. Plaintiff has not alleged any such conspiracy and Plaintiff does not endorse any such conspiracy. Plaintiff case is not only plausible but it is supported by the preponderance of the evidence, when and if the evidence is presented. The court system in Georgia is corrupt. Not superficially corrupt, but deeply corrupt. The court system is no longer a truth seeking process, but rather a maze of legal technicalities and political influences that often sidestep the truth. Thousands of innocent men and women are confined to prisons because of our corrupted and broken legal system and this must be changed and someone must change it. Plaintiff has nothing but factual allegations and Plaintiff's allegations are supported by the evidence, if and when the evidence is allowed to be heard.

The Order further states:

"SUMMARY

Applying the applicable standards, and assuming all the Plaintiff's claims are correct, the Court finds all the Plaintiff's monetary damage or personal injury and civil rights

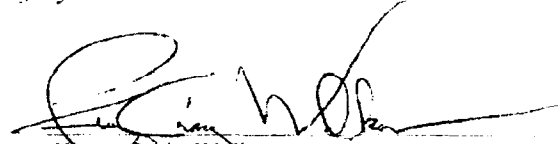
claims to be time barred, as his right of action began to accrue on September 25, 2001 and this lawsuit was filed on November 20, 2007. The Court finds the Plaintiff's claim for expungement of his arrest records is not time barred and may proceed as directed above."

The Plaintiff's claims are not time barred, as his right of action began to accrue on November 23, 2005 when the State of Georgia finally dismissed all of his false charges and stopped their attempt to convict him for crimes he did not commit, and where he was in actuality the victim of brutal violence. This nightmare did not legally end until November 23, 2005 and this lawsuit was filed on November 20, 2007, within the two (2) year statute of limitations. Again, the fact that the court finds in favor of Plaintiff for his expungement claim is evidence in itself Plaintiff was falsely arrested. The fact that this case continued in the adjudication process for some 50 months, with one trial ending in alleged felony tampering with evidence, which Plaintiff can prove, and the fact that Plaintiff showed up for some half dozen trial calendar calls but never given his day in court, points clearly to wrong doing. This wrong doing is in the form of criminal actions, obstruction of law, violations of oath of office, and actions unbecoming of an officer—and these can be proven in a court of law if Plaintiff is giving the opportunity to do so. A powerful case such as this should never been barred from being heard in a free country and Plaintiff will never stop fighting for justice in this case.

Conclusion of Argument for Appeal

Plaintiff has a valid case and the evidence can be presented to support his complaint. Plaintiff has the right to a jury trial and Plaintiff demands such now.

This 20th day of March, 2010.



Kerry Craig Walker
Sui Juris/Plaintiff

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STATE OF GEORGIA

KERRY CRAIG WALKER,

Plaintiff,

v.

Cherokee County,
Sheriff Roger Garrison,
Preston Peavy, ET AL,

Defendant.

NOTICE OF APPEAL-ARGUMENT

CIVIL ACTION

FILE NO. 07-CV-3325

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the foregoing, **Argument for Appeal and Response to Order on Motion for Judgment on the Pleadings**, to Superior Court Clerk of Cherokee County, concerning Case No. 07-CV-3325, to be forwarded to the Georgia Court of Appeals, by sending a copy of same in the United States Mail with sufficient postage affixed thereon to insure delivery as follows:

Judge Murphy C. Miller
Judge, Superior Court
Enotah Judicial Circuit
59 South Main Street, Suite K
Cleveland, Georgia 30528

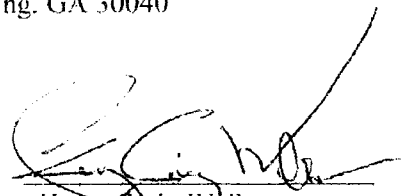
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This 20th Day of March, 2010.

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Kerry Craig Walker
Pro se/Plaintiff