

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

FILED
APR 26 2010
CLERK
CHEROKEE COUNTY
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PATTY WALKER, CLERK
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KERRY CRAIG WALKER,

Plaintiff,

V.

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

Defendant.

AMENDED NOTICE
TO SEEK EXPUNGEMENT

CIVIL ACTION
FILE NO. 07-CV-3325

AMENDED NOTICE TO SEEK EXPUNGEMENT

In the **Order On Motion For Judgment On The Pleadings** by Judge Murphy C. Miller, dated February 25, 2010 the Defendants' Motion refusing Plaintiff's expungement claim was denied, thereby **granting** said Plaintiff, Kerry Craig Walker, his right to seek expungement.

The judge's Order states:

"For the following reasons, the Defendants' Motion is **HEREBY GRANTED** with respect to all damages and civil rights claims, and **HEREBY DENIED**, as to Plaintiff's expungement claim."

Plaintiff filed an **Amended Notice of Appeal** dated March 22, 2010 which has been filed in the Superior Court of Cherokee County (March 24, 2010), which appeals the judge's order in every part thereof except the expungement claim. Plaintiff's appeal was docketed in the Georgia Court of Appeals (Case No. A10A1505) on April 6, 2010.

The judge's Order further states:

"As to the expungement claim by the Plaintiff, the Court finds that the Plaintiff *may* be entitled to expungement per O.C.G.A. § 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 hereby makes a request to the Cherokee County Sheriff's Department, Clerk of Superior Court, and GCIC to provide Plaintiff with any necessary forms to seek expungement from his arrest on September 25, 2001 for three misdemeanors and from an indictment and upgraded charge of Aggravated Assault (Case No. 02-CR-0053) and from the subsequent indictment (Case No. 02-CR-1029). Plaintiff was falsely arrested on September 25, 2001 and charged with Simple Assault, Simple Battery, and Obstruction or Hindering Persons Making Emergency Phone Calls and Plaintiff's Simple Assault charge was upgraded to Aggravated Assault in a Bill of Indictment on January 14, 2002 (Case No. 02-CR-0053) —All crimes that he did not commit and that were in fact committed against him. Plaintiff's false arrest on three (3) misdemeanors and subsequent tainted indictment by a Grand Jury, which upgraded Plaintiff's misdemeanor Simple Assault charge to a Felony Aggravated Assault, was based on corrupted evidence produced by the former Detective Preston Peavy and excluded all exculpatory evidence that the former Detective Preston Peavy ignored, eliminated, or altered during the course of this case. Plaintiff's indictment (Case No. 02-CR-0053) eventually was Nolle Prossed and Plaintiff was re-indicted (Case No. 02-CR-1029). Plaintiff's case was shoveled through the courts for 50 months and Plaintiff's first trial ended with alleged Felony Tampering with Evidence by the State. Plaintiff went to some half dozen more trial calendar calls for the new indictment (02-CR-1029) but was never given his day in court. Each and every one of Plaintiff's charges were formally dismissed by the Honorable Judge Jackson Harris (Case No. 02-CR-1029) on November 23, 2005 and Plaintiff was granted the legal right on February 25, 2010 by Order of Judge Murphy C. Miller to seek

expungement of all records related to these cases, including the arrest records on three (3) misdemeanor charges and indictment with upgraded felony charge (Case No. 02-CR-0053) and re-indictment (Case No. 02-CR-1029).

Plaintiff hereby gives notice to seek expungement of all records related to his arrest and indictments in the above mentioned cases, and Plaintiff request copies of all documents needed to perform and confirm such expungement. Plaintiff is hereby making a request in writing to the GCIC and to the Cherokee County Sheriff's Department to expunge their records in the above mentioned cases.

This 21st Day of April, 2010.

Please address all communications to:
Kerry Craig Walker
Evensville, TN 37332
(423) 260-5803



Kerry Craig Walker
Pro se/Plaintiff

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STATE OF GEORGIA

KERRY CRAIG WALKER,

Plaintiff,

v.

Cherokee County,
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Defendant.

CERTIFICATE OF SERVICE

CIVIL ACTION

FILE NO. 07-CV-3325

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the foregoing, **Amended Notice to Seek Expungement**, to Superior Court Clerk of Cherokee County, concerning Case No. 07-CV-3325, to be forwarded to the Georgia Court of Appeals, Case No. A10A1505, 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

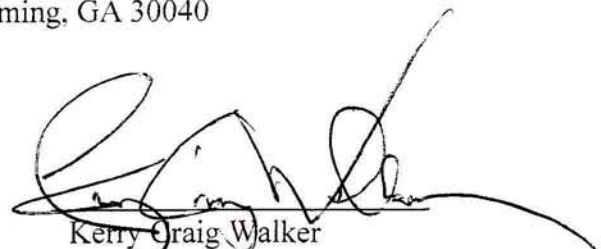
William L. Martin, III, Clerk
Georgia Court of Appeals
47 Trinity Avenue, Suite 501
Atlanta, GA 30334

Shivers & Associates
Kendrick K. McWilliams
4400 North Point Parkway, Suite 105
Alpharetta, GA 30023-1808

Angela E. Davis, Esq.
Jarrard & Davis
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040

This 21st Day of April, 2010.

Please address all communications to:
Kerry Craig Walker
142 Medina Lane
Evansville, TN 37332
(423) 260-5803



Kerry Craig Walker
Pro se/Plaintiff