Court of Appeals
of the State of Georgia

ATLANTA, September 08, 2016

The Court of Appeals hereby passes the following order

A16A2178. RESHARDE SMITH v. THE STATE.

The appellant in this case failed to comply with the notice of docketing mailed by this Court and with Court of Appeals Rules 22 (a) and 23 (a), regarding the filing of an enumeration of errors and brief within twenty days after the appeal was docketed. See also Court of Appeals Rule 13.

On August 17, 2016, this Court ordered the appellant to file an enumeration of errors and a brief no later than August 29, 2016. As of the date of this order, the appellant's enumeration of errors and brief still have not been filed. Accordingly, this appeal is deemed abandoned and is hereby ordered DISMISSED. Court of Appeals Rules 7, 23 (a).

Because procedural deficiencies have deprived the appellant of the right of appellate review, the appellant is hereby informed of the following in accordance with Rowland v. State, 264 Ga. 872 (452 SE2d 756) (1995):

> This Court has dismissed your appeal because an enumeration of errors and a brief have not been filed on your behalf as required. If this failure occurred while you were represented by legal counsel and was due to your appellate counsel's failure to perform the duties of appellate counsel, and if you still wish to appeal, you may file a motion in the trial court for permission to pursue an out-of-time appeal. If the trial court grants your motion for an out-of-time appeal, you will have 30 days from the filing date of the order granting your motion to file in the trial court a notice of appeal from the judgment of conviction and sentence. If the trial court denies your motion for an out-of-time appeal, you will have 30 days from the filing date of the order denying your motion to file in the trial court a notice of appeal from that order.

The Clerk of Court is directed to send a copy of this order to the appellant as well as to the appellant's attorney of record, if any. The appellant's attorney is also directed to send a copy of this order to the appellant.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, September 08, 2016.

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Stephen E. Castlen *, Clerk.*