Court of Appeals
of the State of Georgia

ATLANTA, February 03, 2017

The Court of Appeals hereby passes the following order:

A16A1929. PARKER v. THE STATE.

After DeWayne Parker was convicted in 2007 of various charges related to his possession of marijuana, he filed a notice of appeal with this Court in Case No. A13A2363. The Clerk of the Spalding County Superior Court transmitted to this Court the record in connection with that appeal, including the trial transcript. When appellate counsel failed to file a brief and enumeration of errors, we dismissed his appeal. One year later, in keeping with this Court's record retention policies, the Clerk of this Court destroyed the record and transcript in Case No. A13A2363.

Parker subsequently moved for an out-of-time appeal, which the trial court granted. Parker then filed an amended motion for new trial, which the trial court denied. Parker appealed that order and the Clerk of the Spalding County Superior Court transmitted the record to this Court. The record as sent, however, contains only matters occurring after this Court's dismissal of Parker's previous appeal in Case No. A13A2363; it does not contain the complete record or the trial transcript.

Beginning on December 19, 2016, personnel in this Court's clerk's office made repeated requests to the Clerk of the Spalding County Superior Court for the complete record and trial transcript. On January 20, 2017, this Court issued an order giving the Clerk of the Spalding County Superior Court until Friday, January 27, 2017, to transmit the complete record and trial transcript. To date, this Court has not received the complete record or trial transcript. The absence of these materials has made it impossible to review Parker's enumeration of errors concerning the sufficiency of the evidence, the superior court's instructions to the jury, and trial counsel's allegedly

ineffective assistance.

Accordingly, this case is REMANDED to the Clerk of the Spalding County Superior Court to compile and transmit the complete record and trial transcript. The Clerk of this Court is directed to redocket this appeal upon receipt of the complete record and trial transcript.

Court of Appeals of the State of Georgia
Clerk's Office,
Atlanta, 02/03/2017

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.*