

**IN THE SUPERIOR COURT OF ELBERT COUNTY** FILED & RECORDED  
**STATE OF GEORGIA**

2009 APR -7 A 10:40

CHRISTOPHER MICHAEL  
CANTWELL, MITCHELL  
CLEVELAND MAJOR, DONNA  
GAIL ADAMS, BOBBY GENE  
GUNTER, and BRANDON  
RANSOM

Plaintiffs, on behalf of  
themselves and all persons  
similarly situated.

v.

MACK CRAWFORD, in his official  
capacity as Director of the Georgia  
Public Defender Standards Council,

BART L. GRAHAM, in his official  
capacity as Commissioner of the  
Georgia Department of Revenue,

W. DANIEL EBERSOLE, in his  
official capacity as Director of the  
Georgia Office of Treasury and  
Fiscal Services,

ROBERT LAVENDER, in his  
official capacity as District Attorney  
of the Northern Judicial Circuit,

BARRY L. HASTON, in his official  
capacity as Sheriff of Elbert County,

STEVIE D. THOMAS, in his official  
capacity as Sheriff of Franklin  
County,

PAT V ANDERSON  
CLERK  
ELBERT SUPERIOR COURT

CIVIL ACTION

No. 09EV275M

CLASS ACTION

MIKE CLEVELAND, in his official  
capacity as Sheriff of Hart County,

KIP C. THOMAS, in his official  
capacity as Sheriff of Madison  
County,

MIKE SMITH, in his official  
capacity as Sheriff of Oglethorpe  
County,

Defendants.

FILED & RECORDED

2009 APR - 7 A 10:33

PAT V ANDERSON  
CLERK  
ELBERT SUPERIOR COURT

### **VERIFIED COMPLAINT**

1. Plaintiffs are among hundreds of poor people charged with felony offenses in the Northern Judicial Circuit who are without legal representation in clear violation of the Supreme Court's decision in Gideon v. Wainwright, 372 U.S. 335, 83 S. Ct. 792 (1963). Some have been without counsel for over six months.

2. Some of the plaintiffs and others without counsel are being detained in jails despite the holding in Gideon, Argersinger v. Hamlin, 407 U.S. 25 (1972), Alabama v. Shelton, 535 U.S. 654 (2002), and other cases with similar holdings that no person can be deprived of his or her liberty without representation by counsel. Plaintiffs CANTWELL, GUNTER, and MAJOR were detained for two and one half months without counsel. Plaintiff ADAMS has been detained without legal representation in the

Elbert County Jail since November 13<sup>th</sup>, 2008. Plaintiff RANSOM has been detained in the Oglethorpe County Jail since November, 2008 without legal representation. Others have been detained as long or longer.

3. Some of the plaintiffs and others without counsel have been called upon to enter pleas of guilty or not guilty to felony charges, despite the Supreme Court's decision that counsel must be provided when an accused is called upon to enter a plea at a felony arraignment. White v. Maryland, 373 U.S. 59 (1963). See also Hamilton v. Alabama, 368 U.S. 52 (1961).

4. Plaintiffs and others are without counsel in violation of Gideon and its progeny because defendant MACK CRAWFORD, Director of the Georgia Public Defender Standards Council ("GPDSC"), who is responsible for providing representation for people accused of crimes whose interests conflict with those of individuals represented by the Northern Circuit Public Defender Office, has failed to carry out his mandatory statutory duty to do so. See Ga. Code Ann. § 17-12-22. Defendant CRAWFORD and the GPDSC contracted with three lawyers who provided representation from July 1<sup>st</sup>, 2007 to June 30<sup>th</sup>, 2008 at a cost of \$129,166. However, Defendant CRAWFORD did not renew the contracts at the end of June, 2008, and has provided the Circuit with only \$37,152 to provide representation in conflict cases from July 1<sup>st</sup>, 2008 to June 30<sup>th</sup>, 2009. This was because the Georgia

Legislature reduced its appropriation to GPDSC for counsel in conflict cases.

5. Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM bring this lawsuit as a class action pursuant to Ga. Code Ann. § 9-11-23 on behalf of themselves and all other indigent, unrepresented persons accused of crimes in Georgia's Northern Judicial Circuit, whose case conflicts with those of individuals represented by the Circuit Public Defender. They are being denied their right to counsel as if they were living in the 1950s before Gideon and the Supreme Court's other right to counsel cases were decided and before the Georgia Indigent Defense Act was enacted.

6. Plaintiffs ask that this Court order that they be provided counsel forthwith or the charges against them be dismissed; that the Court order the immediate release of all of those detained in violation of Gideon and its progeny; that the Court enjoin Defendant District Attorney LAVENDER from proceeding against all class members after the right to counsel attaches unless counsel is in fact provided; and for such other relief as to which they may be entitled.

## **JURISDICTION AND VENUE**

7. This action is brought to enforce rights conferred by the United States and Georgia Constitutions and other applicable law. It is brought under the authority vested in this Court pursuant to Ga. Code Ann. §§ 9-4-2 and -3, Ga. Code Ann. § 9-5-1, Ga. Code Ann. §§ 9-6-20 to 23, -25; 42 U.S.C. §§ 1983, 1985; 28 U.S.C. §§ 1331, 1343, and 1367.

8. Venue is proper in Elbert County as substantial equitable relief is sought against at least one Defendant residing in Elbert County. See Ga. Code Ann. § 9-10-30.

9. All actions, and refusals to act, of the Defendants were under color of state law and with deliberate indifference to Plaintiffs' rights.

## **PARTIES**

10. Plaintiff CHRISTOPHER MICHAEL CANTWELL, a 26 year-old resident of Elbert County, was arrested and detained on November 26<sup>th</sup>, 2008 on suspicion of committing one count of burglary, three counts of entering an automobile, one count of theft by receiving stolen property, and one count of cruelty to animals. Plaintiff CANTWELL has three co-defendants. Plaintiff CANTWELL was denied bond on December 2<sup>nd</sup>, 2008. Despite applying for a public defender and qualifying for assistance,

Plaintiff CANTWELL was not assigned a public defender due to a conflict of interest nor was he appointed a conflict attorney. Plaintiff CANTWELL remained detained in the Elbert County Jail until February 10<sup>th</sup>, 2009 when he posted a property bond. On March 19<sup>th</sup>, 2009, Plaintiff CANTWELL attended Elbert County arraignments and made another request for an attorney before being told there were no lawyers and to enter a plea of not guilty. As of the filing of this Complaint, Plaintiff CANTWELL remains unrepresented. Because Plaintiff CANTWELL is indigent, faces felony prosecution, and seeks the appointment of a lawyer to defend against the charges against him, he currently suffers and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

11. Plaintiff MITCHELL CLEVELAND MAJOR, a 54 year-old resident of Elbert County, has three open cases. In his first case, Plaintiff MAJOR was arrested in February, 2008 on suspicion of committing one count of burglary, has one co-defendant, has posted a bond, and was appointed a conflict attorney. In the second case, Plaintiff MAJOR was arrested in November, 2008 on suspicion of committing one count of possession of cocaine and one count of possession of drug-related objects, has one co-defendant, had a \$21,000 bond, and was not appointed a lawyer. In the third case, Plaintiff MAJOR was arrested in December, 2008 on

suspicion of committing one count of burglary, has another co-defendant, had a \$25,000 bond, and was not appointed a lawyer. Despite filing applications for a public defender and qualifying for assistance, Plaintiff MAJOR was never appointed an attorney on the second two cases. On March 11<sup>th</sup>, 2009, Plaintiff MAJOR's bond was reduced by the jail administrator, Michael Thompson, and Plaintiff MAJOR was released after the reduced bond was posted. As of the filing of this Complaint, Plaintiff MAJOR has not spoken with an attorney regarding his criminal cases in months. Plaintiff MAJOR has been arraigned on two charges without representation. Because Plaintiff MAJOR is indigent, faces felony prosecution, and seeks the appointment of a lawyer to defend against the charges against him, he currently suffers and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

12. Plaintiff DONNA GAIL ADAMS, a 43 year-old resident of Elbert County, was arrested and detained on November 13<sup>th</sup>, 2008 on suspicion of committing one count of armed robbery. Plaintiff ADAMS has one co-defendant. Plaintiff ADAMS was denied bond on November 17<sup>th</sup>, 2008. Despite financially qualifying for assistance and initially being represented by a public defender that filed and argued a bond motion on her behalf, Plaintiff ADAMS has not had contact with any attorney since her

December 17<sup>th</sup>, 2008 bond hearing. As of the filing of this Complaint, Plaintiff ADAMS is no longer represented by a public defender due to a conflict of interest. She has not been appointed another lawyer. Plaintiff Adams was arraigned on March 4<sup>th</sup>, 2009 without representation. Because Plaintiff ADAMS is indigent, faces felony prosecution, seeks the appointment of a lawyer to defend against the charges against her, and is detained in the Elbert County Jail, she currently suffers and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

13. Plaintiff BOBBY GENE GUNTER, an 18 year-old resident of Elbert County, was arrested and detained on November 26<sup>th</sup>, 2008 on suspicion of committing one count of burglary and three counts of entering an automobile. Plaintiff GUNTER has three co-defendants. Plaintiff GUNTER was denied bond on December 2<sup>nd</sup>, 2008. After applying for a public defender and qualifying for assistance, Plaintiff GUNTER was told he would not be appointed a public defender due to a conflict of interest. He was not appointed another attorney. Plaintiff remained detained in the Elbert County Jail until February 11<sup>th</sup>, 2009 when he posted a property bond. As of the filing of this Complaint, Plaintiff GUNTER remains unrepresented. Because Plaintiff GUNTER is indigent, faces felony prosecution, and seeks the appointment of a lawyer to defend against the



charges against him, he currently suffers and in the immediate future faces the likelihood of suffering substantial and irreparable injury.

14. Plaintiff BRANDON RANSOM, a 28 year-old resident of Clarke County, was transferred to Oglethorpe County Jail in November, 2008. He was detained on suspicion of committing two counts of armed robbery, one count of aggravated assault, and one count of kidnapping. Plaintiff RANSOM has four co-defendants. At a December 8<sup>th</sup>, 2008 court appearance, Plaintiff RANSOM was told that there were no attorneys available to represent him. Despite requesting an attorney and financially qualifying for the assistance of a public defender, Plaintiff RANSOM was not appointed a lawyer. Plaintiff RANSOM does not have a bond set. As of the filing of this Complaint, Plaintiff RANSOM remains detained and unrepresented. Because Plaintiff RANSOM is indigent, faces felony prosecution, seeks the appointment of a lawyer to defend against the charges against him, and is detained in the Oglethorpe County Jail, he currently suffers and in the immediate future faces the likelihood of suffering substantial and irreparable injury. See Attachment A for Plaintiffs' Declarations.

15. Defendant MACK CRAWFORD is the Director of the Georgia Public Defender Standards Council ("GPDSC"). As Director, Defendant

CRAWFORD is responsible for protecting the rights of poor people accused of crimes established by the United States Supreme Court in Gideon, In re Gault, 387 U.S. 1 (1967), and their progeny, as well as the provisions of the United States and Georgia Constitutions providing for the right of access to the courts. He is charged with providing “support services and programs for circuit public defenders and other attorneys representing indigent persons in criminal or juvenile cases in order to improve the quality and effectiveness of legal representation and to fulfill the purposes of Chapter 12 of O.C.G.A. Title 17.” See Georgia Public Defender Standards Council Bylaws § 5.3. In authorizing the drastic reduction of the budget for conflict attorneys in the Northern Circuit while failing to renew their contracts, Defendant CRAWFORD effectively ended conflict representation in the Northern Circuit and acted in breach of his constitutional, statutory, administrative, and ethical obligations.

16. Defendant BART L. GRAHAM is the Commissioner of the Georgia Department of Revenue. Defendant GRAHAM’s continued enforcement and administration of the Code renders Defendant GRAHAM liable for violation of the Plaintiffs’ civil rights and subject to equitable relief in his official capacity.

17. Defendant W. DANIEL EBERSOLE is the Director of the Georgia Office of the Treasury and Fiscal Services, the office responsible for the receipt and disbursement of state funds, lottery funds, and management of the state's cash resources. In his role in providing these services to state agencies, Defendant EBERSOLE is liable for violation of the Plaintiffs' civil rights and subject to equitable relief in his official capacity.

18. Defendant ROBERT LAVENDER, resident of Elbert County, is the District Attorney for the Northern Judicial Circuit. As District Attorney, Defendant LAVENDER is responsible for prosecuting criminal defendants. In his role in processing those prosecutions, Defendant LAVENDER is liable for violation of Plaintiffs' civil rights and subject to equitable relief in his official capacity.

19. Defendants HASTON, STEVIE D. THOMAS, CLEVELAND, KIP C. THOMAS, and SMITH are sheriffs in counties of the Northern Judicial Circuit. In their role in detaining unrepresented criminal defendants, each sheriff Defendant is liable for violation of Plaintiffs' civil rights and subject to equitable relief in his official capacity.

## **CLASS ACTION ALLEGATIONS**

20. Plaintiffs bring this action as class representatives under Ga. Code Ann. § 9-11-23, on behalf of themselves and all persons similarly situated.

21. The class Plaintiffs seek to represent consists of all indigent persons who are or will in the future be charged in a criminal case in the Northern Judicial Circuit, whose case conflicts with a case of a client of the Circuit Public Defender, and who are not represented by the Circuit Public Defender Office.

22. Plaintiffs meet the requirements of Ga. Code Ann. § 9-11-23(a) in that:

- (a) The members of the class are so numerous as to make it impracticable to bring separate civil rights actions. Currently, there are hundreds of unrepresented people charged with crimes whose interests conflict with clients of the Circuit Public Defender, and the number grows daily;
- (b) The policies and practices challenged in this action apply equally to Plaintiffs and all members of the proposed class. Accordingly, the claims asserted by the members constituting the proposed class

raise common questions of law and fact that will predominate over individual questions of law or fact;

(c) Plaintiffs assert claims which are typical of claims members of the proposed class have against all Defendants; and

(d) Plaintiffs and their counsel will adequately represent the interests of all members of the proposed class. The named Plaintiffs do not have any interests that would conflict with members of the class, and Plaintiffs' counsel have the experience and resources necessary to adequately represent all members of the proposed class.

23. Plaintiffs meet the requirements of Ga. Code Ann. § 9-11-23(b)

in that:

(a) A class action is superior and necessary form for resolving the issues raised by this Complaint because the Defendants' actions have resulted in constitutionally inadequate or nonexistent representation for all members of the proposed class, making appropriate declaratory and prospective injunctive relief against the Defendants with respect to all members of the class.

24. Because the actions on the part of the Defendant have denied Plaintiffs the right to counsel and because Plaintiffs are indigent and do not

have alternative access to representation, the remedies available at law are both unavailing and unavailable. Thus, class members will suffer substantial and irreparable injury.

### **FACTUAL ALLEGATIONS**

25. The Northern Judicial Circuit contains five counties: Elbert, Franklin, Hart, Madison, and Oglethorpe. Indigent defense services are provided by the Circuit Public Defender Office, and until June 30<sup>th</sup>, 2008, three private attorneys were contracted to handle all conflict cases.

26. In all cases, including multiple defendant cases, a representative from the public defender office interviews every person charged with committing a crime. The representative interviews each person charged to determine whether the individual is indigent as defined by the Indigent Defense Act and to determine whether there is a conflict of interest. If during the interview a conflict of interest is apparent, the public defender requests appointment of a private attorney to represent those with conflicts who also qualify as indigent. Similarly, if during later interactions with the clients, assistant public defenders or their staff determines a conflict, the public defender requests a private attorney for one or more of the clients. Until August 1<sup>st</sup>, 2008, Northern Circuit Superior Court judges then appointed a contract conflict attorney to represent the conflict cases. After

August 1<sup>st</sup>, however, judges did not have a pool from which to appoint private conflict attorneys because Defendant CRAWFORD unreasonably chose to reduce the Northern Circuit conflict budget by more than seventy percent and also opted not to renew the private attorneys' contracts.

27. Three private attorneys in the circuit entered into year-long contracts with GPDSC to provide conflict representation through June 2008. The GPDSC compensated the three lawyers a total of \$129,166.69 for the 2008 fiscal year (July 1<sup>st</sup>, 2007 to June 30<sup>th</sup>, 2008) to provide representation for all of the Northern Circuit conflict cases. Warren Caswell contracted to handle 175 cases for \$50,000, Dennis Helmreich contracted to handle another 175 cases for \$50,000, and Harvey Wasserman contracted to handle 100 cases for \$29,166.69. In fiscal year 2009, Defendant CRAWFORD refused to renew the conflict defenders' contracts and reduced the budget for conflicts in the Northern Circuit to approximately \$37,152. See Attachment B. At the end of June 2008, the conflict attorneys were asked to continue representing clients. After a month, however, the funds budgeted for conflicts in the circuit were exhausted.

28. Starting August 1<sup>st</sup>, 2008, the conflict attorneys ceased billing. Two of the conflict attorneys, Dennis Helmreich and Warren Caswell, filed motions to withdraw in their pending cases. Their withdrawal motions were

granted. An example of a withdrawal motion and order granting withdrawal is attached as Attachment C. The third conflict attorney, Harvey Wasserman, did not withdraw, but he was not paid, and as a result, did not and does not work on his appointed cases. Judges stopped appointing conflict attorneys to new cases. Hundreds of indigent persons are left without legal representation. Although some attempt has been made to find representation for conflict cases from the neighboring Athens Regional Conflict Defender office, the relief has been extremely limited. Only two conflict cases are being handled by the Athens Regional Conflict Defender. There is no indication if/when lawyers will be appointed for Plaintiffs and others similarly situated.

29. Without any sort of representation, some plaintiffs are left to languish in jail. As Judge Bailey noted in his Order dated February 4<sup>th</sup>, 2009 and appended hereto as Attachment D, “[Plaintiffs] ... remain incarcerated without representation and without the means by which to request a bond hearing.”

30. Plaintiff CANTWELL was incarcerated over two months without representation. During his incarceration, approximately \$1,200.00 worth of property was stolen from Plaintiff CANTWELL’s trailer. Plaintiff CANTWELL also received a termination notice from his job.



Consequently, Plaintiff CANTWELL lost his trailer due to his inability to pay rent. While still incarcerated, not long after the break-in and the job termination, Plaintiff CANTWELL's grandfather passed away, and Plaintiff CANTWELL was not allowed to attend the funeral.

31. Plaintiff ADAMS has been incarcerated for more than four months. While incarcerated, Plaintiff ADAMS has been unable to follow-up on the results of her mammogram and ultrasound.

32. Plaintiff MAJOR was incarcerated for over two months without representation. Plaintiff MAJOR suffers from heart disease, asthma, schizophrenia, and bi-polar disorder. While incarcerated, Plaintiff MAJOR did not receive mental health medication, an inhaler, or any medication for high blood pressure. While incarcerated, Plaintiff MAJOR lost his home temporarily.

33. Without representation, *all* plaintiffs' cases suffer irreparable damage. Without representation, discovery requests are not made, other motions are rarely, if ever, filed, and no investigation is conducted - witnesses become harder to find, memory fades, and evidence grows stale. Furthermore, some plaintiffs are brought to court without notice and left to make significant legal decisions without the benefit of counsel.

34. At Elbert County's March 4<sup>th</sup>, 2009 arraignments, a critical stage of prosecution, eight people were present for cases in which the public defender declared a conflict. All eight proceeded without representation; they were vulnerable and bewildered by the criminal process. They went forward with no explanation of procedure, no explanation of viable options, and no indication of when representation would be made available. One of the eight pled guilty and was sentenced to serve time in jail without ever having spoken with a lawyer specifically about his charges.

35. Similarly, at the March 19<sup>th</sup>, 2009 arraignments several conflicts were declared. Ten people accused of crimes were present and eligible for indigent defense services, but were not appointed counsel. In one instance, a six co-defendant case was arraigned. The Circuit Public Defender declared conflicts in all but two of the cases. This arraignment mirrored the March 4<sup>th</sup>, 2009 arraignments in that those accused of crimes were not provided with details about procedure, next steps, or likely timing of appointment of counsel. Plaintiffs CANTWELL, MAJOR, and GUNTER were arraigned on March 19<sup>th</sup>, 2009. Plaintiff CANTWELL requested postponement of the proceedings until appointment of counsel. His request was denied because of the unavailability of lawyers due to lack of funds. Plaintiff CANTWELL left the proceeding without answers to several questions including: date of

next court proceeding, whether he would have a lawyer for the next court date, and whether he would have a lawyer in time to prepare his defense.

36. The effect of Defendants' actions is not limited to Plaintiffs; the repercussions reach further. Cases for all individuals charged in multiple-defendant conflict cases are also on hold, and the effective administration of justice is halted.

37. Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM were all interviewed by the Circuit Public Defender Office. Each was deemed indigent as defined by the Georgia Indigent Defense Act, and as such, each qualified for defense services at public expense. See Ga. Code Ann. § 17-12-1 et seq.

38. The Sixth and Fourteenth Amendments to the United States Constitution, as well as Article I, Section 1, Paragraph XIV of the Georgia Constitution, impose on the State of Georgia the obligation, delegated to Defendant CRAWFORD as Director of the GPDSC, to ensure that indigent persons accused of crimes for which they may be imprisoned are provided with effective legal representation. See Ga. Code Ann. § 17-12-1.

39. In purporting to carry out the responsibility of providing representation for indigent persons accused of a crime, Defendant

CRAWFORD is a state actor and subject to federal constitutional obligations.

40. In enforcing and administering the Code, Defendant GRAHAM is a state actor.

41. In purporting to manage the state's financial resources, Defendant EBERSOLE is a state actor.

42. In prosecuting criminal cases and continuing to process prosecutions in cases where accused persons lack representation, Defendant LAVENDER is a state actor.

43. In detaining individuals charged with crimes without counsel, Defendants HASTON, STEVIE D. THOMAS, CLEVELAND, KIP C. THOMAS, and SMITH, are state actors.

44. Refusing to compensate lawyers fully for their services effectively impedes the provision of adequate legal representation. Similarly, failing to renew contracts for conflict attorneys and leaving hundreds of indigent individuals accused of committing crimes without representation also obstructs the right to counsel.

45. State actors are prohibited from interfering with ongoing attorney-client relationships. Because of the fundamental and unique nature of the right to counsel, interference with it causes irreparable injury to the

plaintiffs and other class members. This injury is compounded when the interference results in a complete lack of representation and people accused of crimes are detained and/or their cases are processed without the benefit of counsel.

**COUNT I:  
RIGHT TO COUNSEL, FEDERAL**

46. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

47. Defendants, acting under color of state law, drastically reduced the budget for conflicts in the Northern Circuit, allowed the contracts of conflict attorneys to lapse, and failed to provide for another mode of conflict representation to indigent individuals accused of committing felony offenses in the Northern Judicial Circuit of Georgia. As such, Defendants have effectively terminated the provision of legal representation to Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others similarly situated in violation of the right to counsel as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

**COUNT II:  
RIGHT TO COUNSEL, STATE**

48. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

49. Defendants, by effectively terminating the provision of legal representation in conflict cases in the Northern Judicial Circuit without providing for another mode of representation for indigent people accused of committing crimes in the Northern Judicial Circuit, violated the right to counsel of Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others similarly situated in violation of Article I, Section I, Paragraph XIV of the Georgia Constitution.

**COUNT III:  
DUE PROCESS, FEDERAL**

50. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

51. Defendants, acting under color of state law, by effectively terminating the provision of legal representation in conflict cases in the Northern Judicial Circuit without providing for another mode of representation for indigent individuals accused of committing crimes in the Northern Judicial Circuit, violated the due process rights of Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others

similarly situated in violation the Fourteenth Amendment of the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

**COUNT IV:  
DUE PROCESS, STATE**

52. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

53. Defendants, by effectively terminating the provision of legal representation in conflict cases in the Northern Judicial Circuit without providing for another mode of representation for indigent individuals accused of committing crimes in the Northern Judicial Circuit, violated the due process rights of Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others similarly situated in violation of Article I, Section I, Paragraph I of the Georgia Constitution.

**COUNT V:  
ACCESS TO COURTS, FEDERAL**

54. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

55. Defendants, acting under color of state law, by effectively terminating the provision of legal representation in conflict cases in the Northern Judicial Circuit without providing for another mode of

representation for indigent individuals accused of committing crimes in the Northern Judicial Circuit, violated the right of Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others similarly situated to access the courts in violation of the First, Sixth, and Fourteenth Amendments of the United States Constitution, as enforced through 42 U.S.C. § 1983 and other applicable law.

**COUNT VI:  
ACCESS TO COURTS, STATE**

56. The allegations of the foregoing paragraphs are incorporated herein as if set forth in full.

57. Defendants, by effectively terminating the provision of legal representation in conflict cases in the Northern Judicial Circuit without providing for another mode of representation for indigent individuals accused of committing crimes in the Northern Judicial Circuit, violated the right of Plaintiffs CANTWELL, MAJOR, ADAMS, GUNTER, and RANSOM, and others similarly situated to access the courts in violation of Article I, Section I, Paragraph XII of the Georgia Constitution.



## **PRAYER FOR RELIEF**

WHEREFORE, based on the foregoing, Plaintiffs respectfully pray that this Court grant the following:

- A. Certify the case as a class action;
- B. Grant Plaintiffs a trial in this matter;
- C. Issue a declaratory judgment finding that Defendant

CRAWFORD is in violation of his constitutional, statutory, administrative and ethical obligations governing the representation of indigent persons accused of committing crimes in the Northern Circuit;

D. Issue an injunction requiring Defendant CRAWFORD to comply with constitutional, statutory, administrative, ethical and professional obligations governing the representation of indigent persons accused of committing crimes in the Northern Circuit, including, but not limited to the creation and implementation of a system that provides for the timely appointment of competent counsel with sufficient resources to consult with clients, conduct independent investigation and provide vigorous and effective advocacy, or in the alternative, issue a writ of mandamus to compel Defendants to perform their clear constitutional, statutory, administrative, contractual and ethical duties, as set forth above;

- E. Enjoin Defendants from proceeding against any and all

Plaintiffs and class members after the right to counsel attaches unless counsel is in fact provided (See O'Kelley v. State, 278 Ga. 564, 604 S.E.2d 509 (2004));

F. Order dismissal of charges without prejudice and order release of any and all Plaintiffs and class members who have a right to counsel but for whom no counsel has been provided (See Rothgery v. Gillespie Cty. Tex., 128 S. Ct. 2578 (2008));

G. Order that unrepresented individuals accused of committing crimes who have not waived counsel, but who remain unrepresented by counsel, and whose case is not tried within the two-term period prescribed by the Georgia speedy trial rule are entitled to dismissal pursuant to the speedy trial rule;

H. Order that nonparties subject to this ruling be notified;

I. Grant Plaintiffs such other relief as the Court deems necessary and proper.

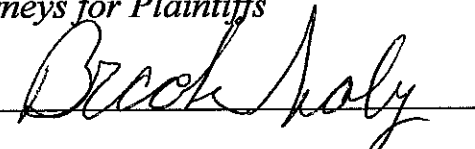
Respectfully submitted this 7<sup>th</sup> day of April 2009.

Gerald Weber  
Georgia Bar No. 744878  
Brooke Sealy  
Georgia Bar No. 414722  
Melanie Velez

Georgia Bar No. 512460  
Lauren Sudeall Lucas  
Georgia Bar. No. 149882  
Southern Center for Human Rights  
83 Poplar Street, N.W.  
Atlanta, Georgia 30303  
Telephone: (404) 688-1202  
Facsimile: (404) 688-9440

*Attorneys for Plaintiffs*

By:

A handwritten signature in cursive script, appearing to read "Brock Aaly", is written over a horizontal line.

**IN THE SUPERIOR COURT OF ELBERT COUNTY  
STATE OF GEORGIA**

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CHRISTOPHER MICHAEL  
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CLEVELAND MAJOR, DONNA  
GAIL ADAMS, BOBBY GENE  
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CIVIL ACTION

No. \_\_\_\_\_

CLASS ACTION

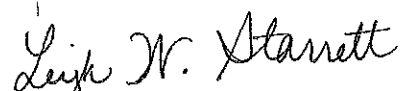
MIKE CLEVELAND, in his official )  
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County, )  
)  
MIKE SMITH, in his official )  
capacity as Sheriff of Oglethorpe )  
County, )  
)  
Defendants. )  
\_\_\_\_\_ )

**VERIFICATION DECLARATION**

As Plaintiff in this case, Christopher Cantwell, does hereby declare under penalty of perjury that the within and foregoing Complaint is true and correct to the best of my knowledge, information and belief and is based upon the undersigned's personal knowledge. Declarant also states that the attached exhibits are true and correct.

FURTHER DECLARANT SAITH NOT.

  
Christopher Cantwell

  
Notary Public - Elbert Co., Ga.  
My comm. exp: 9-8-2012

## **CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Ga. Code Ann. § 9-11-4, I have this day perfected service of this **VERIFIED COMPLAINT** upon all Defendants at the following addresses:

Mack Crawford  
Georgia Public Defender Standards Council  
104 Marietta Street, Suite 200  
Atlanta, GA 30303

Bart L. Graham  
Georgia Department of Revenue  
1800 Century Blvd., NE  
Atlanta, GA 30345-3205

W. Daniel Ebersole  
Georgia Office of Treasury and Fiscal Services  
200 Piedmont Avenue  
Suite 1202, West Tower  
Atlanta, GA 30334

Robert Lavender  
118 W. Johnson Street  
Hartwell, GA 30643

Sheriff Barry L. Haston  
Elbert County Sheriff's Department  
26 West Church Street  
Elberton, GA 30635

Sheriff Stevie D. Thomas  
Franklin County Sheriff's Department  
1 James Little Street  
P.O. Box 310  
Carnesville, GA 30521

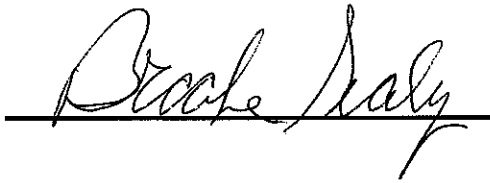
Sheriff Mike Cleveland  
Hart County Sheriff's Department  
155 N. Carolina Street  
Hartwell, GA 30643

Sheriff Kip C. Thomas  
Madison County Sheriff's Department  
1436 Hwy 98 W  
P.O. Box 65  
Danielsville, GA 30633

Sheriff Mike Smith  
Oglethorpe County Sheriff's Department  
115 Buddy Faust Road  
P.O. Box 17  
Lexington, GA 30648

Office of the Attorney General  
40 Capitol Square, SW  
Atlanta, GA 30334

This 7<sup>th</sup> day of April, 2009.

A handwritten signature in cursive script, appearing to read "Peachy Dally", is written over a horizontal line.

# **Attachment A**



### DECLARATION OF MITCHELL CLEVELAND MAJOR

I, Mitchell Cleveland Major, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am more than 18 years of age and am competent to sign this declaration which is based on my personal knowledge.
2. My birth date is October<sup>mm</sup>~~2~~, 1954.
3. I am a resident of Elberton, Georgia.
4. I have three open cases in Elbert County Superior Court, each with a co-defendant. The co-defendants are all being represented by the Northern Circuit Public Defender's Office.
5. In the oldest case, I was arrested on March 12, 2008 and appointed a conflict attorney, Mr. Harvey Wasserman in May 2008. I met him at arraignment in September 2008 and he entered a not-guilty plea on my behalf.
6. I was arrested for my second and third case on November 18 and December 29, 2008. On December 30, 2008, my bond was set at \$46,000. I had no assets to make a property bond.
7. A representative from the public defender's office interviewed me at the jail after my arrest and had me fill out an application. She told me I qualified for their services, but then I never heard from them again.
8. I believe that if I had had an attorney, one would have filed a motion to lower my bond and I would have been able to be released.

9. I have serious medical problems including heart disease, asthma, schizophrenia, and bi-polar disorder.
10. For the two years before I was incarcerated, I was being treated at the Elbert County Behavioral Management facility where I received medication and mental health counseling.
11. During the more than two months in jail, I did not receive my mental health medication, my inhaler, or any medication for my high blood pressure. I had trouble sleeping, and I experienced depression and anxiety.
12. On February 3, 2009, I was taken to calendar call from the jail. I was offered a plea of 10 years, to serve three from the prosecutor on my oldest case. I was not prepared to enter a plea. Although Mr. Wasserman was in court, he said he could not do anything for me. It is my understanding that Mr. Wasserman is not being paid to work on this case anymore because there is no money for conflict attorneys.
13. After two and a half months of incarceration my bond was somehow reduced from \$46,000 to \$21,000 so that a friend could put up his property for my bond. On March 11, 2009, I was released from jail.
14. I appeared for arraignments on March 13 and March 19, 2009 in those other two cases. Both times I entered a not-guilty plea without a lawyer. My co-defendants were represented by the public defender's office. The judge told me that as soon as he found someone to represent me I would be notified.

15. I cannot afford a lawyer, but need one to prepare my case, defend me at trial or negotiate a plea on my behalf.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 25<sup>th</sup> day of March, 2009.

Mitchell C. Major  
Signed

Mary B. Sinclair  
Witnessed

### DECLARATION OF DONNA GAIL ADAMS

I, Donna Gail Adams, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am more than 18 years of age and am competent to sign this declaration which is based on my personal knowledge.
2. My birth date is September 27, 1966.
3. I am a resident of Elberton, Georgia.
4. My co-defendant, Melissa Deanne Hardmon<sup>3A</sup>, and I were arrested on November 13, 2008, and charged with one count of Armed Robbery.
5. On November 17, I was denied bond by Superior Court Judge John H. Bailey, Jr., but told that I could have a bond hearing.
6. On November 21, Public Defender Jana M. Whaley filed a motion to set bond for me and my co-defendant.
7. I had a bond hearing on December 17, 2008, at which Jana Whaley represented me. A bond of \$50,000 was set.
8. I cannot afford this bond and there is no one to post a bond for me.
9. On March 4, 2009, I was brought to the courthouse for arraignments.

10. My co-defendant and I were called before the judge together. The public defender told the judge her office was representing my co-defendant, but they could not represent me due to a conflict.
11. My charges were read by the district attorney and then I entered a not-guilty plea without a lawyer.
12. I was not told when a lawyer would be appointed to my case, and I was returned to jail.
13. I cannot afford a lawyer, but need one to prepare my case, defend me or negotiate a plea.
14. If I were not in jail, I would pursue medical care. Because I complained of pain in my breasts, the jail sent me for a mammogram and an ultrasound. The results of the ultrasound were handed to me by an officer at the jail, but no one explained anything to me. My mother and my grandmother both had breast cancer. If I were not in jail, I would certainly like to try to follow up on the test results.
15. I have been told that I must pay \$1,500.00 for the mammogram.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 25 day of March 2009.

Donna Adams  
Signed

Mary B. Snelain  
Witnessed

## DECLARATION OF BRANDON MARCEL RANSOM

I, Brandon Marcel Ransom, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am 28 years of age and am competent to sign this declaration which is based on my personal knowledge.
2. I am a resident of Clarke County, Georgia and was born on October 15, 1980.
3. I was indicted on May 29, 2008 in Oglethorpe County, Georgia and charged with aggravated assault, armed robbery, and kidnapping with bodily injury.
4. In November of 2008, I was paroled to the Oglethorpe County Jail.
5. I have four co-defendants in my case: Davericus Blackmon, Kendrick Jackson, Eric Andrews, and Marques Ward.
6. To my knowledge, Mr. Blackmon, Mr. Andrews, and Mr. Ward are represented. Mr. Blackmon and Mr. Andrews have appointed attorneys while Mr. Ward has retained counsel.
7. On November 18, 2008, I filled out forms at the Oglethorpe County Jail requesting representation by the public defender's office.
8. On around November 19, 2008, I appeared before a Judge in <sup>magistrate</sup> ~~superior~~ court without counsel and was denied bond. (BR)


9. On December 8, 2008, I appeared in court with my codefendants. We were not given the opportunity to speak. We were told that there were no lawyers available to handle our case. That was the last contact I have had with either the courts or the public defender's office.
10. I have been in the Oglethorpe County Jail for over five months now without an appointed attorney. I still have not been set a bond. I cannot afford a lawyer, but need one to prepare my case, defend me at trial or negotiate a plea (if any).

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 31 day of March, 2009.

Baun Ransom  
Signed

Jessica L. Wray  
Witness





### **DECLARATION OF BOBBY GENE GUNTER**

I, Bobby Gene Gunter, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am 18 years of age and am competent to sign this declaration which is based on my personal knowledge.
2. I am a lifelong resident of Elbert County and my birthday is January 15, 1991.
3. I was arrested on November 26, 2008 in Elberton, Ga. and charged with burglary and entering an auto.
4. That same day, I appeared before Magistrate Tina Scoggins without counsel and was told she could not set me a bond.
5. I have three co-defendants in my case: Christopher Cantwell, Rashaad Dejesus and Jordan Bell.
6. Rashaad Dejesus was released from jail soon after he was arrested.
7. Jordan Bell was appointed the public defender and had a bond hearing.
8. I requested the public defender be appointed to my case soon after I was denied a bond.

9. Soon after my request, a woman from the public defender's office came to the jail and told me that her office could not represent me, but that I would be appointed a lawyer from Oglethorpe or Madison County.
10. I began asking Mike Thompson, the jailer, to help me get a bond. He told me that in January I would be going to court for a bond hearing. This never happened.
11. Christmas and New Year's Eve passed by while I was in jail without a bond.
12. On January 15, I turned 18 years old while I was in jail.
13. Finally, on February 9, 2009, I was notified by the jail that a \$30,000 property bond had been set.
14. A family friend put up his property for the bond and I was released from jail on February 11, 2009, two and a half months after being arrested.
15. I appeared in court for arraignments on March 19, 2009 without a lawyer. The public defender said she could not represent me because she was representing Jordan Bell. I was asked how I plead to the charges, so I entered a not-guilty plea and was told that I would be notified when a lawyer had been appointed to my case.
16. I cannot afford a lawyer, but I need one to prepare my case, to defend me at trial or negotiate a plea on my behalf.

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 26 day of March, 2009. BGS

Bobby Gunter  
Signed

Mary B. Sinclair  
Witnessed

## **DECLARATION OF CHRISTOPHER MICHAEL CANTWELL**

I, Christopher Michael Cantwell, being competent to make this declaration and having personal knowledge of the matters stated therein, declare under penalty of perjury that the following is true and correct:

1. I am more than 18 years of age and am competent to sign this declaration which is based on my personal knowledge.
2. My birthday is August 13, 1982.
3. I was arrested on November 26, 2008 in Elberton, Ga. and charged with burglary, entering an auto, theft by receiving stolen property and misdemeanor cruelty to animals.
4. I appeared before Magistrate Tina Scoggins on November 26 without counsel and November 28 without counsel and was told she could not set me a bond. She said she was sorry, but there was nothing she could do.
5. This was the last time I had contact from the court.
6. I have three co-defendants in my case: Bobby Gene Gunter, Rashaad Dejesus and Jordan Bell.
7. Rashaad Dejesus was released from jail soon after he was arrested.
8. I heard that my co-defendant Jordan Bell was appointed the public defender and had a bond hearing.

9. About two weeks after my arrest, I filled out request forms for the public defender to be appointed to my case.
10. About a week later, a woman from the public defender's office came to the jail and told me that her office could not represent me or file a motion for a bond due to a conflict in representing my co-defendant.
11. When I asked what I was to do about getting an attorney, she advised me to fill out some sort of financial aid form. This is the last time I had any contact from the public defender.
12. I received a termination notice from my job at Bojangles dated December 1, 2008 while I was in jail.
13. On about December 26, I had to give up my trailer because I couldn't pay the rent. Soon after this, there was a break-in and about \$1,200 worth of my property was stolen from the trailer.
14. On January 18, 2009, my grandfather died, and I was not allowed to leave the jail to attend the funeral.
15. I submitted four requests to Mike Thompson, the jailer, for help in getting a bond. I did not receive a response to these requests.
16. My mother called the jail on February 8, 2009 and found out that a \$30,000 property bond had been set in my case by Judge Bailey on February 4, 2009.

17. My family put up their house for the bond and I was released from jail on February 10, 2009, two and a half months after being arrested.
18. Since I have been out of jail, I have been trying to get a job but it has been difficult with open charges.
19. I am living with my mother and stepfather in their home.
20. I appeared in court for arraignments on March 19, 2009 without a lawyer.
21. Judge Bailey advised me to enter a not guilty plea. I asked if I could wait until I got a lawyer appointed to enter a plea. He told me he wanted me to enter a not guilty plea; that it wouldn't affect my rights. I did as he asked. He told me he would appoint a lawyer to my case and someone would contact me with this information.
22. I am very concerned about how long I will have to wait for a lawyer to be appointed to my case.
23. I cannot afford a lawyer, but need one to prepare my case, to defend me at trial or negotiate a plea (if any).

I swear under penalty of perjury that the information given herein is true and correct and understand that a false answer to any item may result in a charge of false swearing.

This 25 day of March, 2009.

Ch M. Candwell  
Signed

Mary B. Sinclair  
Witnessed

## **Attachment B**



**Independent Contractor Agreement between GPDSC and Conflict Attorneys FY-08]**

<b>Circuit</b>	<b>Attorney</b>	<b>Date of Contract</b>	<b>Amount</b>	<b>Cases per year</b>	<b>Rate per case</b>
Alcovy	Edmonson, Reed	7/5/07	\$35,000.00	100	\$350.00
Alcovy	Mizerak, Brett	6/30/07	\$70,000.00	200	\$350.00
Atlanta	Kehir, Paul	6/29/07	\$50,000.00	150	\$333.33
Chattahoochee	Clay, Christopher	7/31/07	\$20,000.00	100	\$200.00
Chattahoochee	Henderson, Susan	7/31/07	\$20,000.00	100	\$200.00
Chattahoochee	Masiano, Cynthia	7/31/07	\$20,000.00	100	\$200.00
Chattahoochee	Thomas, Shevon	7/31/07	\$20,000.00	100	\$200.00
Conasauga	Corbin, Michael	6/30/07	\$45,000.00	150	\$300.00
Conasauga	Moncus, Jerry	6/30/07	\$45,000.00	150	\$300.00
Coweta (Carroll+ Heard Co.)	Swindle, Jason	6/30/07	\$25,000.00	80	\$312.50
Dougherty	Carter, Roosevelt	7/13/07	\$24,375.00	75	\$325.00
Dougherty	Driskell, Ingrid	6/30/07	\$24,375.00	75	\$325.00
Enotah	Davis, Jeanne	6/30/07	\$30,000.00	125	\$240.00
Enotah	Stanley, Kris-Ann	6/30/07	\$20,000.00	75	\$266.67
Griffin (Spalding Co.)	Floyd, Charles	7/27/07	\$17,500.00	75	\$233.00
Middle, Atlantic, Ogeechee	Maddox, Tina	4/1/08	\$50,000.00	125	\$400.00
Middle, Atlantic, Ogeechee	Smith, David	4/1/08	\$43,750.00	125	\$350.00
Northeastern	Horsley, Nathan	6/30/07	\$60,000.00	150	\$400.00
Northern	Caswell, Warren	8/14/07	\$50,000.00	175	\$285.71
Northern	Melton, Martin	8/14/07	\$50,000.00	175	\$285.71
Northern	Wasserman, Harvey	12/20/07	\$29,166.69	100	\$291.67
Ocmulgee	Lingold, Blanton	6/30/07	\$18,000.00	65	\$276.92
Ocmulgee	Thompson, Keri	6/30/07	\$25,000.00	100	\$250.00
Rome	Lewis, Jason A.	6/29/07	\$30,000.00	100	\$300.00
Tifton	Gowen, Michael	6/30/07	\$30,000.00	80	\$375.00
Tifton	Walker, James	7/3/07	\$36,000.00	100	\$360.00
<b>TOTAL</b>			<b>\$888,166.69</b>	<b>2950</b>	<b>\$301.07</b>

Martin Melton was replaced by Dennis Helmreich

**Independent Contractor Agreement between GPDSC and Conflict Attorneys FY-09**

Circuit	Attorney	Date of Contract	Amount	Cases per year	Rate per case	New or Renew
Alcovy	Barrow, Charles	7/1/2008	\$ 20,000.00	75	\$ 266.67	New
Alcovy	Frost, Bryan	7/1/2008	\$ 20,000.00	75	\$ 266.67	New
Alcovy	Mizerak, Brett	7/1/2008	\$ 20,000.00	75	\$ 266.67	Renew at smaller rate and caseload
Alcovy	Ross, Brian	7/1/2008	\$ 20,000.00	75	\$ 266.67	New
Atlanta	Haigler, Jimmine	7/1/2008	\$ 50,000.00			Terminated early
Atlanta	Kehir, Paul	7/1/2008	\$ 50,000.00	150	\$ 333.33	Terminated early
Atlanta	Kraus, John	7/9/2008	\$ 50,000.00			Terminated early
Atlanta	Ladd, Brett	7/7/2008	\$ 50,000.00			Terminated early
Atlanta	Latin, Latrice	7/1/2008	\$ 50,000.00			Terminated early
Conasauga	Corbin, Michael	7/1/2008	\$ 25,000.00	80	\$ 312.50	Renew at smaller rate and caseload
Conasauga	Moncus, Jerry	7/1/2008	\$ 25,000.00	80	\$ 312.50	Renew at smaller rate and caseload
Coweta	Swindle, Jason	7/1/2008	\$ 25,000.00	80	\$ 312.50	Renew at same rates
Dougherty	Carter, Roosevelt	7/1/2008	\$ 25,200.00	75	\$ 336.00	Renew at same rates
Dougherty	Driskell, Ingrid	7/31/2008	\$ 30,800.00	75	\$ 410.67	Renew at higher rates
Dougherty	Warren, Christopher	7/31/2008	\$ 23,100.00	75	\$ 308.00	New
Griffin	Floyd, Charles	8/1/2008	\$ 18,000.00	40	\$ 450.00	Renew at fewer cases, more money
Griffin	Smith, Vernon	8/19/2008	\$ 12,000.00	24	\$ 500.00	New
Griffin	Walker, Lloyd	8/15/2008	\$ 12,000.00	24	\$ 500.00	New
Ocmulgee	Lingold, Blanton	7/1/2008	\$ 18,000.00	65	\$ 276.92	Renew at same rates
Ocmulgee	Thompson, Keri Foster	7/1/2008	\$ 25,000.00	100	\$ 250.00	Renew at same rates
Rome	Lewis, Jason	8/14/2008	\$ 30,000.00	100	\$ 300.00	Renew at same rates
<b>TOTAL</b>			<b>\$ 599,100.00</b>			

**Circuit Contracts not renewed in FY-09**

**08 amount**

**Conflict Budget for FY-09**

Middle, Atlantic, Ogeechee	Maddox, Tina	4/1/08	\$50,000.00	125	\$400.00	\$ 25,560.00
Middle, Atlantic, Ogeechee	Smith, David	4/1/08	\$43,750.00	125	\$350.00	
Northeastern	Horsley, Nathan	6/30/07	\$60,000.00	150	\$400.00	\$ 67,518.00
Northern	Caswell, Warren	8/14/07	\$50,000.00	175	\$285.71	\$ 37,152.00

Northern	Melton, Martin	8/14/07	\$50,000.00	175	\$285.71	
Northern	Wasserman, Harvey	12/20/07	\$29,166.69	100	\$291.67	
Chattahoochee	Clay, Christopher	7/31/07	\$20,000.00	100	\$200.00	\$ 88,938.00
Chattahoochee	Henderson, Susan	7/31/07	\$20,000.00	100	\$200.00	
Chattahoochee	Masiano, Cynthia	7/31/07	\$20,000.00	100	\$200.00	
Chattahoochee	Thomas, Shevon	7/31/07	\$20,000.00	100	\$200.00	
Enotah	Davis, Jeanne	6/30/07	\$30,000.00	125	\$240.00	\$ 21,564.00
Enotah	Stanley, Kris-Ann	6/30/07	\$20,000.00	75	\$266.67	
Tifton	Gowen, Michael	6/30/07	\$30,000.00	80	\$375.00	\$ 22,050.00
Tifton	Walker, James	7/3/07	\$36,000.00	100	\$360.00	
<b>TOTAL</b>			<b>\$ 478,916.69</b>	<b>1630</b>		<b>\$ 262,782.00</b>

This is the amount budgeted for these circuits where there is no longer a contracted conflict attorney.

Only the Northeastern Circuit seems to be compensated at the same amount as the total of the contracts, but the other 5 circuits' budgets were cut by more than half.

# **Attachment C**

FILED IN OFFICE

SUPERIOR COURT OF OGLETHORPE COUNTY  
STATE OF GEORGIA

2008 AUG 29 PM 3: 52  
*CP Bessie*

STATE OF GEORGIA,

vs.

DAVERICUS KEON BLACKMON,  
Defendant

\*  
\*  
\*  
\*  
\*  
\*

Case No. 08-OR-047

**PETITION TO WITHDRAW**

Comes now Dennis Peter Helmreich, Attorney at Law, who petitions this court for permission to withdraw and shows the following:

1.

Petitioner was appointed to represent Defendant in the above-styled case.

2.

Petitioner has heretofore represented said defendant pursuant to an Independent Contractor Agreement with the Georgia Public Defender Standards Council.

3.

Said agreement has expired, and the Georgia Public Defender Standards Council is apparently suffering a shortage of funds due to a lack of funding from the State of Georgia. Said shortage of funds ostensibly prevents the Council's offering to renew the agreement, and no such offer has been made to Petitioner.

4.

Petitioner should be allowed to withdraw, and all proceedings in this matter should be stayed until Defendant can be provided with competent counsel.

WHEREFORE, Petitioner prays that he be allowed to withdraw as the attorney of record for Defendant; that Petitioner be discharged from any further duty or obligation to the Court and to Defendant in this matter; and that the Court stay all further proceedings in this matter until Defendant is represented by competent counsel.

Respectfully submitted this 29<sup>th</sup> day of August, 2008.



DENNIS PETER HELMREICH - #344380  
Attorney for Defendant

Post Office Box 266  
Lexington GA 30648-0266  
706 743-3410

This is to certify that I have this day served Martin Melton, Assistant District Attorney, with a copy of the above and foregoing Petition to Withdraw, as provided by law, August 29, 2008.



IN THE SUPERIOR COURT OF OGLETHORPE COUNTY  
STATE OF GEORGIA

FILED IN OFFICE

2008 SEP 18 PM 1:55

*Samantha Thomas*

CLERK, SUPERIOR COURT

OGLETHORPE CO. GA

STATE OF GEORGIA,

v.

DARVERICUS KEON BLACKMON,  
Defendant

Case #: 08-OR-047T -B

**ORDER ALLOWING WITHDRAWAL OF COUNSEL**

Defendant's attorney, DENNIS PETER HELMREICH, having requested an order of the court permitting him to withdraw as counsel for Defendant, it appearing that all the requirements of Georgia Uniform Superior Court Rule 4.3 have been met, and there being no objection to the contrary, it is ORDERED:

Dennis Peter Helmreich shall be and is hereby allowed to withdraw as counsel for Defendant. Defendant shall keep the court informed respecting notices, pleadings or where other papers may be served.

This the 16<sup>th</sup> day of September, 2008.

*[Signature]*  
\_\_\_\_\_  
Judge of the Superior Courts  
Northern Judicial Circuit

## **Attachment D**



IN THE SUPERIOR COURT FOR THE COUNTY OF ELBERT  
STATE OF GEORGIA

FILED & RECORDED  
PVA  
2009 FEB -6 A 11: 51

THE STATE OF GEORGIA

VS

PAT V ANDERSON  
CLERK  
CRIMINAL CASE 09-ER-523

JORDAN NICHOLAS BELL,  
CHRISTOPHER MICHAEL CANTWELL,  
BOBBY GENE GUNTER, and  
RASHAAD COREY DEJESUS,  
Defendants

ORDER

The above named Defendants are charged in the above-styled indictment as follows:  
Count 1 - Burglary; Count 2 - Entering an Automobile; Count 3 - Entering an Automobile;  
Count 4 - Entering and Automobile; and Count 5 - Theft by Receiving Stolen Property.  
Defendant **Bell** is charged in counts 1 through 4; Defendant **Cantwell** is charged in counts  
1 through 4; Defendant **Gunter** is charged in counts 1 through 4; and Defendant **DeJESUS** is  
charged in count 5 only.

Bond has been denied as to Defendant Bell and the court has ordered a psychological  
evaluation to be completed and report made to the Court before a reconsideration of bond.  
Defendant Bell is being represented by the Public Defender's Office of the Northern Judicial  
Circuit.

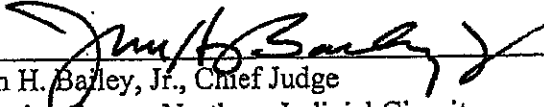
Defendants Cantwell, Gunter and DeJesus cannot be represented by the Public Defender's  
Office of the Northern Judicial Circuit because of a conflict of interest arising out of their  
representation of Co-Defendant Bell. Defendants Cantwell, Gunter and DeJesus qualify as  
indigent and entitled to court appointed counsel at no cost to them. The Georgia Public Defender  
Standards Counsel (GPDSC) has no funds to pay for conflict attorneys and the Court is without  
authority to require Elbert County to pay for these defendants' representation. Meanwhile,  
Defendants Cantwell, and Gunter remain incarcerated without representation and without the  
means by which to request a bond hearing.

For the above and foregoing reasons the Court is compelled to set bond for these

defendants.

**WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that bond be set for Defendants Cantwell, and Gunter as follows: Count One - \$20,000.00; Count Two - \$5,000.00; Count Three - \$5,000.00. The District Attorney's Office is directed to prepare the "standard" bond Order with all the regular conditions of bond along with the following special condition of bond - the defendants are not to come upon the property of any of the alleged victims named in the indictment and are not to have any contact with said victims in any manner whatsoever, either personally or through any other party.

**SO ORDERED** this 4th day of February, 2009.

  
\_\_\_\_\_  
John H. Bailey, Jr., Chief Judge  
Superior Courts, Northern Judicial Circuit