

ORIGINAL

CAPITAL CASE

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

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Joni Muller
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STATE OF GEORGIA,)
)
 Plaintiff,)
)
 v.)
)
 RICHARD SCOTT HARPER,)
)
 Defendant.)

Case No. 08CR00175-JFL003

**DEFENDANT RICHARD SCOTT HARPER'S
WITHDRAWAL OF SUPPLEMENTAL MOTION #2-2**

COMES NOW the Defendant, RICHARD SCOTT HARPER, and WITHDRAWS Supplemental Motion # 2-2 (SUPPLEMENTAL MOTION TO DISMISS THE INDICTMENT DUE TO THE COMPOSITION OF THE GRAND JURY & PLEA IN ABATEMENT BASED UPON THE FACT THAT A GRAND JUROR WHO SIGNED INDICTMENT NO. 08-CR-00175-JFL003 IS A CONVICTED FELON).

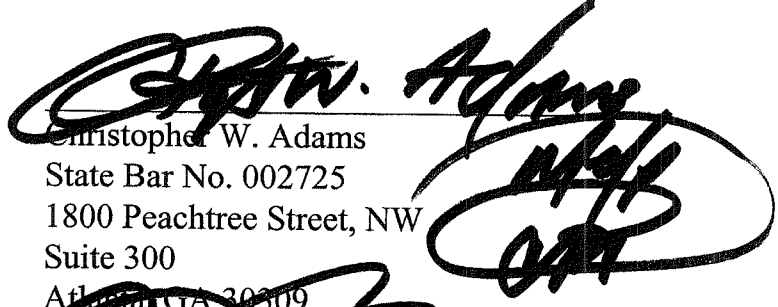
Prior to filing the motion, the Defendant received information from the Georgia Bureau of Investigation which indicated that Grand Juror Justin D. Sims' criminal history "rap sheet" showed a felony conviction. In fact, the Defendant submits that said criminal history "rap sheet" continues to indicate that Grand Juror Justin D. Sims has a felony conviction. However, upon a closer review of Mr. Sims' accusation and plea disposition for his August 23, 2002 plea and conviction for Violation of the Georgia Controlled Substances Act in Floyd County, Georgia, it is now apparent to the Defendant that Mr.

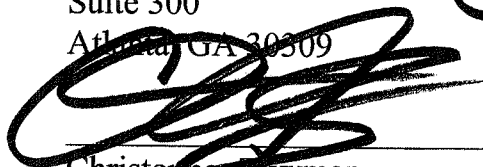
Sims' felony charge was dismissed by the State, and Mr. Sims was convicted of a lesser included misdemeanor offense.

Likewise, a closer review of Mr. Sims' criminal history reveals that Mr. Sims has multiple misdemeanor convictions, and had multiple convictions at the time of his grand jury service in this case. The Defendant, Mr. Harper, submits that a grand juror with multiple misdemeanor convictions does not meet the qualifications required of grand jurors, to wit: the most experience, intelligent, and upright citizens of the county. O.C.G.A. § 15-12-40. Therefore, while Mr. Harper withdraws Supplemental Motion # 2-2, he intends to recast and file a motion to challenge Mr. Sims' service on the grand jury on the basis that his multiple misdemeanor convictions make him unqualified to serve as a grand juror.

This 20th day of June, 2008, it is,

Respectfully submitted,


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