

IN THE SUPERIOR COURT OF  
GORDON COUNTY  
STATE OF GEORGIA

**FILED**  
Clerk Superior Ct., Gordon County  
**DEC 28 2007**  
Brian Brannon  
Clerk

STATE OF GEORGIA : CRIMINAL ACTION  
: :  
VS. : FILE NUMBER 04-CR-16471  
: :  
JERRY WILLIAM JONES, :  
: :  
DEFENDANT : :

**ORDER ON DEFENDANT'S MOTION TO SUPPRESS EVIDENCE  
SEIZED FROM DEFENDANT'S APARTMENT  
(DEFENDANT'S MOTION #121)**

The above and foregoing motion to suppress evidence seized at Defendant's Apartment in Rome, Georgia, regularly coming before the Court on December 20, 2007, with counsel for the State and Defense being present and the Defendant being present, and after hearing argument from counsel, and counsel agreeing no additional evidence need be presented, the Court enters the following Order:

**BACKGROUND**

After hearing evidence and argument of counsel on August 21, 2006, concerning the search of Defendant's apartment, the Court entered an order denying Defendant's Motion to Suppress on September 11, 2006. Subsequently, the Court certified the issue for interim review by order filed December 11, 2006.

On October 29, 2007, the Supreme Court reversed this Court, holding that "the search was unlawful insofar as it exceeded a plain view search incident to the attempted arrest of Jones in his apartment," *Jones v. State*, 507A0573, \_\_\_\_\_ Ga \_\_\_\_\_, SE2d \_\_\_\_\_ (2007) *reh. den.*

December 14, 2007, and remanded the issue for a new ruling consistent with the Court's opinion.

### FINDINGS OF FACT

The Court finds that law enforcement officers entered Defendant's apartment at 8:24 a.m. on January 8, 2004, in an attempt to locate him. By 8:30 a.m. it was determined that Mr. Jones was not present.

The Court further finds, according to Detective Hosea Picon, letters on the computer stand were found at 8:30 a.m.; a .223 caliber bullet was found at 8:41 a.m.; the gun box sticking out from under the bed was found at 8:43 a.m.; additional letters in the master bedroom were found at 8:54 a.m.; and a bow was found at 9:02 a.m.; all of which were located after it had been determined Mr. Jones was not present.

The Court further finds that Defendant had not waived his Fourth Amendment rights. *id.*

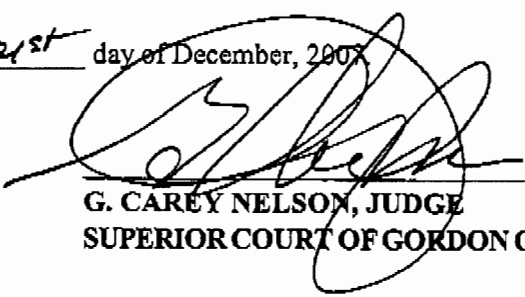
### CONCLUSIONS OF LAW

Based upon the above and foregoing Findings of Fact, the Court concludes, as a matter of law, that the search of Defendant's apartment was unlawful.

### JUDGMENT

Therefore, based upon the above Findings of Fact and Conclusions of Law, the Court hereby vacates its September 11, 2007, Order, and does hereby **GRANT** Defendant's motion to suppress all evidence seized from Defendant's apartment.

SO ORDERED this 21<sup>st</sup> day of December, 2007.

  
G. CAREY NELSON, JUDGE  
SUPERIOR COURT OF GORDON COUNTY, GEORGIA