

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Douglas J. Mincher
Clerk of Court

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March 19, 2015

Appeal Number: 14-10681-P
Case Style: Marion Wilson, Jr. v. Warden
District Court Docket No: 5:10-cv-00489-MTT

MEMORANDUM TO COUNSEL OR PARTIES:

The Court orders the Office of the Attorney General for the State of Georgia to respond to Marion Wilson Jr.’s petition for rehearing. The Court directs the State to address whether *Ylst v. Nunnemaker*, 501 U.S. 797, 806, 111 S. Ct. 2590, 2596 (1991), requires us to “look through” the summary denial of the certificate of probable cause of the Supreme Court of Georgia to review the reasoning of the opinion of the Superior Court of Butts County or whether *Ylst* requires only that we “look through” the summary denial to decide if the Supreme Court of Georgia affirmed on the merits or on procedural grounds. *See Harrington v. Richter*, 562 U.S. 99–100, 131 S. Ct. 784–85 (2011) (“When a federal claim has been presented to a state court and the state court has denied relief, it may be presumed that the state court adjudicated the claim on the merits in the absence of any indication or state-law procedural principles to the contrary. . . . The presumption may be

overcome when there is reason to think some other explanation for the state court's decision is more likely. *See, e.g., Ylst v. Nunnemaker*, 501 U.S. 797, 803, 111 S. Ct. 2590 (1991).”).

The State shall respond within 21 days of our Order, and its response shall not exceed 20 pages. Counsel for Marion Wilson Jr. may, but is not required to, respond within 14 days of the service of the State's response, and Wilson's response shall not exceed 10 pages.

Sincerely,

DOUGLAS J. MINCHER, Clerk of Court

Reply to: Jan S. Camp
Phone #: (404) 335-6171

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