

SUPREME COURT OF GEORGIA

Lay v. State, 289 Ga. 210

710 S.E.2d 141 (2011) · No. S11A0560 · Decided May 16, 2011

SUMMARY

The Supreme Court of Georgia held that the untimely filing of a motion in arrest of judgment does not deprive an appellate court of jurisdiction to review the trial court's ruling on that motion. Instead, the untimeliness limits the trial court's authority to grant relief. The court affirmed the denial of Jonah Lay's motion because it was filed years after the term in which his judgment was entered.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Justice
JURISDICTION	Georgia
DECIDED	May 16, 2011
DOCKET	S11A0560
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lay appealed the trial court's denial of his motion in arrest of judgment.
STANDARD OF REVIEW	The Supreme Court independently considered whether it had appellate jurisdiction and reviewed the trial court's ruling on the motion in arrest of judgment.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia.
PARTIES	Jonah Bernard Lay v. The State

TOPICS

- appellate jurisdiction
- appellate procedure
- criminal procedure
- post-conviction relief
- preservation of error

PRACTICE AREAS

- Criminal procedure
- Appellate procedure
- Post-conviction relief

QUESTIONS PRESENTED

1. Whether the untimely filing of a motion in arrest of judgment deprives the appellate court of jurisdiction over an appeal from the trial court's ruling on that motion.
2. Whether the trial court properly denied Lay's motion in arrest of judgment because it was filed outside the term of court in which judgment was obtained.

HOLDINGS

1. The untimely filing of a motion in arrest of judgment is not an appellate-jurisdictional defect requiring dismissal of an appeal from the trial court's ruling on the motion.
2. The trial court properly denied Lay's motion in arrest of judgment because the motion was filed many terms after the term in which the judgment was obtained and was therefore clearly untimely.

KEY QUOTATIONS

“Today, we expressly hold that the untimely filing of a motion in arrest of judgment in the trial court is not a defect in appellate jurisdiction that will subject to dismissal an appeal from the trial court's ruling on such a motion, as would an untimely filed notice of appeal.” (710 S.E.2d at 142)

FACTUAL BACKGROUND

Lay was convicted of felony murder and other crimes in Fulton County in June 2004. Several years later, he filed a motion in arrest of judgment alleging that his indictment was substantively defective because it failed to allege an essential element of the charged offense. The motion was filed in August 2010, many terms of court after the term in which he was convicted.

PROCEDURAL HISTORY

Lay was convicted in Fulton County in June 2004 of felony murder and other crimes. After an initial appeal was dismissed and remanded for the limited purpose of allowing an ineffective-assistance claim to be raised, Lay filed a pro se motion in arrest of judgment in August 2010, alleging that his indictment omitted an essential element of the charged offense. The trial court summarily denied the motion, and Lay timely appealed.

DISPOSITION

affirmed

CASES CITED

- Sanders v. State, 280 Ga. 780, 631 S.E.2d 344 (2006)
- Wright v. State, 277 Ga. 810, 596 S.E.2d 587 (2004)
- Orr v. State, 275 Ga. 141, 562 S.E.2d 498 (2002)
- Lacey v. State, 253 Ga. 711, 324 S.E.2d 471 (1985)
- Ferguson v. Freeman, 282 Ga. 180, 646 S.E.2d 65 (2007)
- Dupree v. State, 279 Ga. 613, 619 S.E.2d 608 (2005)
- Rubiani v. State, 279 Ga. 299, 612 S.E.2d 798 (2005)

- Rowland v. State, 264 Ga. 872, 452 S.E.2d 756 (1995)
- Johnson v. RLI Ins. Co., 288 Ga. 309, 704 S.E.2d 173 (2010)
- Williams v. State, 287 Ga. 192, 695 S.E.2d 244 (2010)
- Harper v. State, 286 Ga. 216, 686 S.E.2d 786 (2009)

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