

COURT OF APPEALS OF THE STATE OF GEORGIA

Marcus A. Watkins v. Ralph Cherry, Warden of the Robert A. Deyton Correctional Facility

A16A1950 · No. A16A1950 · Decided July 18, 2016

SUMMARY

The Georgia Court of Appeals dismissed Marcus A. Watkins's appeal for lack of jurisdiction because he filed his notice of appeal 16 days after the court granted his discretionary-appeal application, rather than within the required 10-day period. The court held that timely filing of the notice of appeal is an absolute jurisdictional requirement under OCGA §§ 5-6-35(g) and 5-6-48(b)(1).

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	July 18, 2016
DOCKET	A16A1950
DISPOSITION	dismissed
PROCEDURAL POSTURE	After granting Watkins's application for discretionary appeal, the Court of Appeals dismissed the appeal because he filed his notice of appeal outside the ten-day period specified in the court's order.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Marcus A. Watkins v. Ralph Cherry, Warden of the Robert A. Deyton Correctional Facility, et al.

TOPICS

appellate jurisdiction

appellate procedure

PRACTICE AREAS

appellate procedure

appellate jurisdiction

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction when Watkins filed his notice of appeal sixteen days after the order granting discretionary review, rather than within the required ten-day period.

HOLDINGS

1. A notice of appeal filed after the ten-day period specified in the order granting a discretionary appeal is untimely and fails to confer jurisdiction on the Court of Appeals.

KEY QUOTATIONS

“The timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court.”

“Because Watkins failed to file his notice of appeal within 10 days of our order granting his application, his notice of appeal is untimely.”

FACTUAL BACKGROUND

The Court of Appeals granted Marcus A. Watkins's application for discretionary appeal on April 5, 2016. Its order expressly required him to file a notice of appeal within ten days. Watkins filed the notice on April 21, sixteen days after the order.

PROCEDURAL HISTORY

On April 5, 2016, the Court of Appeals granted Watkins's application for discretionary appeal and notified him that he had ten days to file his notice of appeal. Watkins filed the notice sixteen days later, on April 21, 2016. The court dismissed the appeal for lack of jurisdiction because the notice was untimely.

DISPOSITION

dismissed

CASES CITED

- White v. White, 188 Ga. App. 556, 556 (373 SE2d 824) (1988)
- Barnes v. Justis, 223 Ga. App. 671, 671-672 (478 SE2d 402) (1996)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ July 01, 2016 The Court of Appeals hereby passes the following order: A16A1950. MARCUS A. WATKINS v. RALPH CHERRY, WARDEN OF THE ROBERT A. DEYTON CORRECTIONAL FACILITY et al. On April 5, 2016, this Court granted Marcus A. Watkins’s application for discretionary appeal.

The order notified Watkins that he had 10 days from the date of the order to file his notice of appeal. See OCGA § 5-6-35 (g). Sixteen days later, on April 21, 2016, Watkins filed his notice of appeal. The timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. See White v. White, 188 Ga. App. 556, 556 (373 SE2d 824) (1988).

Because Watkins failed to file his notice of appeal within 10 days of our order granting his application, his notice of appeal is untimely. Accordingly, this appeal is DISMISSED for lack of jurisdiction. See OCGA § 5-6-48 (b) (1); Barnes v. Justis, 223 Ga. App. 671, 671-672 (478 SE2d 402) (1996). Court of Appeals of the State of Georgia 07/01/2016 Clerk's Office, Atlanta,_____ I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.,
Clerk.

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