

COURT OF APPEALS OF THE STATE OF GEORGIA

Rickey Lett v. State

A21E0043 (Ga. Ct. App. Apr. 23, 2021) · No. A21E0043 · Decided April 30, 2021

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ April 23, 2021 The Court of Appeals hereby passes the following order: A21E0043. RICKEY LETT v. THE STATE. Rickey Lett was convicted of armed robbery, criminal attempt to commit armed robbery, two counts of aggravated assault, and false imprisonment, and this Court affirmed his convictions on appeal.

Lett v. State, 349 Ga. App. XXIV (March 7, 2019). Lett subsequently filed a “motion to vacate judgment for lack of subject matter jurisdiction,” which the trial court denied on February 19, 2021. On April 20, 2021, Lett filed this pro se emergency motion for “out of time appeal extension of time to file notice of appeal.” In the motion, he essentially argues that his sentence should be vacated as a void sentence.

Lett’s emergency motion fails for two reasons. First, Lett is not entitled to an extension of time to file a notice of appeal. While this Court has the discretion under OCGA § 5-6-39 (a) (1) and Court of Appeals Rule 16 (a) to grant an extension of time for the filing of a notice of appeal, the request “for an extension must be made before expiration of the period for filing as originally prescribed or as extended by a permissible previous order.” OCGA § 5-6-39 (d).

Because Lett’s motion for an extension of time was filed after expiration of the 30-day period for filing a notice of appeal of the trial court’s February 19, 2021 order, we are without authority to grant the requested extension. See OCGA § 5-6-38 (a) (“A notice of appeal shall be filed within 30 days after entry of the appealable decision or judgment complained of [.]”).

In addition, to the extent that Lett is requesting that this Court vacate his judgment or grant him an out of time appeal, Lett’s motion fails to meet the standard for emergency relief as contemplated by Court of Appeals Rule 40 (b).

Accordingly, Lett’s motion for emergency relief is hereby DENIED. Court of Appeals of the State of Georgia Clerk’s Office, Atlanta, _____ 04/23/2021 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.

