

COURT OF APPEALS OF THE STATE OF GEORGIA

Thomas Edward Stokes, Jr. v. State

A16A1067 · No. A16A1067 · Decided May 19, 2016

SUMMARY

The Georgia Court of Appeals dismissed Thomas Edward Stokes, Jr.’s appeal for lack of jurisdiction because his notice of appeal was filed more than two years after his convictions and after he waived his pending motion for new trial. The court explained that a timely notice of appeal is required and informed Stokes of the procedure for seeking an out-of-time appeal.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	May 19, 2016
DOCKET	A16A1067
DISPOSITION	dismissed
PROCEDURAL POSTURE	Stokes appealed his convictions after waiving a previously filed motion for new trial before the trial court ruled on it.
STANDARD OF REVIEW	The court reviewed its appellate jurisdiction based on the statutory timeliness requirement for filing a notice of appeal.
PRECEDENTIAL VALUE	Published Court of Appeals of Georgia decision
PARTIES	Thomas Edward Stokes, Jr. v. The State

TOPICS

- appellate jurisdiction
- appellate procedure
- final judgment rule
- criminal procedure

PRACTICE AREAS

- Appellate procedure
- Criminal procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals had jurisdiction over a notice of appeal filed more than two years after the judgment of conviction when the defendant waived a pending motion for new trial before entry of an order on that motion.

HOLDINGS

1. A timely notice of appeal is an absolute requirement for appellate jurisdiction, and because Stokes waived his pending motion for new trial before an order was entered on it, the motion did not extend the time for appealing the judgment of conviction. His notice of appeal, filed more than two years after the judgment, was untimely.

KEY QUOTATIONS

“The proper and timely filing of the notice of appeal is an absolute requirement to confer appellate jurisdiction upon this Court.” (unpaginated order)

“Accordingly, this appeal is hereby DISMISSED for lack of jurisdiction.” (unpaginated order)

FACTUAL BACKGROUND

Stokes was convicted on November 27, 2013, of rape, aggravated sexual battery, and kidnapping with bodily injury. He had filed a timely motion for new trial but later waived that motion before any order was entered on it. He then filed his notice of appeal on January 21, 2016, more than two years after entry of the judgment of conviction.

PROCEDURAL HISTORY

On November 27, 2013, Stokes was convicted of rape, aggravated sexual battery, and kidnapping with bodily injury. He timely filed a motion for new trial, but on January 21, 2016, he filed a notice of appeal stating that he waived the motion and would proceed directly to appeal. The Court of Appeals dismissed the appeal for lack of jurisdiction because the notice was filed more than two years after entry of the judgment of conviction.

DISPOSITION

dismissed

CASES CITED

- Rowland v. State, 264 Ga. 872, 872 (1) (452 SE2d 756) (1995)