

SUPREME COURT OF GEORGIA

von Thomas v. State

293 Ga. 569 (2013) · Decided September 9, 2013

SUMMARY

The Georgia Supreme Court held that a motion to vacate a sentence filed nearly five years after sentencing was properly within the sentencing court’s jurisdiction only if it asserted a cognizable claim that the sentence was void. A challenge to the validity of a prior conviction used for recidivist sentencing, including an alleged denial of counsel, does not constitute such a void-sentence claim. The court vacated the Court of Appeals’ decision and remanded with direction to dismiss the motion.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Blackwell, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	September 9, 2013
DISPOSITION	vacated
PROCEDURAL POSTURE	The Supreme Court of Georgia granted certiorari to review whether a defendant's post-sentence motion to vacate a recidivist sentence presented a cognizable claim that the sentence was void.
STANDARD OF REVIEW	Whether the sentencing court had jurisdiction to consider an untimely motion to vacate a sentence presents a legal question reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Supreme Court of Georgia decision
PARTIES	Jerry von Thomas v. State

TOPICS

sentencing

post-conviction relief

sentence modification

appellate procedure

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PRACTICE AREAS

criminal procedure

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QUESTIONS PRESENTED

1. Whether the sentencing court had jurisdiction nearly five years after sentencing to consider a motion to vacate based on the alleged invalidity of a prior conviction used for recidivist sentencing.
2. Whether an alleged denial of counsel in connection with a prior conviction used as a recidivist-sentencing predicate constitutes a claim that the later sentence is void.
3. Whether the lower courts properly reached the merits of von Thomas's challenge to the prior conviction.

HOLDINGS

1. After the ordinary one-year period for modifying or vacating an imprisonment sentence has expired, the sentencing court has jurisdiction only over a motion presenting a cognizable claim that the sentence is void.
2. A sentence is void only when the punishment imposed is not authorized by law; a challenge to the existence or validity of a factual or adjudicative predicate for the sentence generally does not establish that the sentence itself is void.
3. An alleged denial of counsel in connection with a prior conviction used as a predicate for recidivist sentencing is a challenge to the validity of the prior conviction, not a claim that the recidivist sentence itself was unauthorized by law; therefore, it does not confer jurisdiction over an untimely motion to vacate the sentence.

KEY QUOTATIONS

“A sentence is void if the court imposes punishment that the law does not allow.” (571)

“Because such claims can be waived, they necessarily do not amount to claims that the sentence imposed was void” (573)

“In his motion to vacate his sentence, von Thomas did not assert a claim that his sentence was void, meaning that it was a sentence that the law did not allow.” (575)

FACTUAL BACKGROUND

In 2006, von Thomas pleaded guilty to unlawful possession of methamphetamine after the State gave notice that it would seek a recidivist sentence based on three prior felony convictions. The sentencing court imposed twelve years of imprisonment without parole followed by eighteen years of probation under OCGA § 17-10-7 (c). Nearly five years later, von Thomas alleged that one of the prior convictions was obtained without the assistance of counsel and argued that the conviction could not support recidivist sentencing.

PROCEDURAL HISTORY

Von Thomas pleaded guilty to unlawful possession of methamphetamine in 2006 and received a recidivist sentence under OCGA § 17-10-7 (c), based in part on a prior conviction allegedly obtained without counsel. Nearly five years later, he moved the sentencing court to vacate the sentence. The sentencing court denied the motion on the merits, and the Court of Appeals affirmed on the merits. The Supreme Court vacated the Court of Appeals' decision because the sentencing court lacked jurisdiction to reach the merits and remanded with directions to dismiss the motion.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Court of Appeals must vacate the sentencing court's decision and remand to the sentencing court for dismissal of von Thomas's motion for lack of jurisdiction.

CASES CITED

- Thomas v. State, 317 Ga. App. 696, 697-698 (732 SE2d 780) (2012)
- Rooney v. State, 287 Ga. 1, 2 (2) (690 SE2d 804) (2010)
- Harper v. State, 286 Ga. 216, 217 n. 1 (1) (686 SE2d 786) (2009)
- Williams v. State, 271 Ga. 686, 688-690 (1)-(2) (523 SE2d 857) (1999)
- Crumbley v. State, 261 Ga. 610, 611 (1) (409 SE2d 517) (1991)
- Jones v. State, 278 Ga. 669, 670 (604 SE2d 483) (2004)
- Nazario v. State, 293 Ga. 480, 487-488 (2) (c)-(d) (746 SE2d 109) (2013)
- Simpson v. State, 292 Ga. 764, 765 (740 SE2d 124) (2013)
- Williams v. State, 287 Ga. 192, 194 (695 SE2d 244) (2010)
- Davis v. State, 319 Ga. App. 501, 504 (2) (736 SE2d 160) (2012)
- Young v. State, 290 Ga. 392, 400 (9) (721 SE2d 855) (2012)
- Hightower v. State, 287 Ga. 586, 594 (10) (698 SE2d 312) (2010)
- Armstrong v. State, 264 Ga. 237, 239 (3) (442 SE2d 759) (1994)
- Grimes v. State, 293 Ga. 559, 562 (3) (748 SE2d 441) (2013)
- Moret v. State, 246 Ga. 5, 5-6 (3) (268 SE2d 635) (1980)
- Barrow v. Barker, 287 Ga. 145, 145-146 (695 SE2d 24) (2010)
- Robinson v. State, 283 Ga. 229, 231 (2) (657 SE2d 822) (2008)
- Tharpe v. State, 262 Ga. 110, 113 (8) (416 SE2d 78) (1992)
- Hampton v. State, 289 Ga. 621, 627 (6) (713 SE2d 851) (2011)
- Funderburk v. State, 276 Ga. 554, 556 (2) (580 SE2d 234) (2003)
- Headspeth v. State, 266 Ga. App. 414, 415 (c) (597 SE2d 503) (2004)
- Nash v. State, 271 Ga. 281, 284-285 (519 SE2d 893) (1999)
- Pope v. State, 256 Ga. 195, 209 (17) (345 SE2d 831) (1986)
- Boykin v. Alabama, 395 U.S. 238 (1969)
- State v. Slaughter, 289 Ga. 344 (711 SE2d 651) (2011)