

COURT OF APPEALS OF THE STATE OF GEORGIA

Reginald Ross v. State

A21D0169 · No. A21D0169 · Decided January 25, 2021

SUMMARY

The Georgia Court of Appeals dismissed Reginald Ross's application for discretionary appeal for lack of jurisdiction. The court held that the application was filed 33 days after the trial court's November 18, 2020 order, exceeding the 30-day deadline under OCGA § 5-6-35(d), and that a motion for reconsideration neither extended the filing period nor created an independently appealable order.

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ January 19, 2021
The Court of Appeals hereby passes the following order: A21D0169. REGINALD ROSS v. THE STATE. While on parole in 2017, Reginald Ross was charged with theft by receiving stolen property and possession of a firearm by a convicted felon.

On May 30, 2018, the charges were placed on a dead docket. Thereafter, Ross filed motions to set aside a void judgment and to dismiss court appointed counsel.¹ The trial court dismissed the motions on November 18, 2020, on the ground that there was no judgment to be set aside and that no court-appointed attorney represented Ross at the time of his filing. Ross filed a motion for reconsideration, which the trial court also denied.

On December 21, 2020, Ross, appearing pro se, filed his application for discretionary appeal challenging the trial court's order of November 18, 2020 dismissing his motions, as well as the motion for reconsideration.

We, however, lack jurisdiction. An application for discretionary review must be filed within 30 days of entry of the judgment or trial court order sought to be appealed. OCGA § 5-6-35 (d). The requirements of OCGA § 5-6-35 are jurisdictional, and this Court cannot accept an application for appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App.

734, 734 (380 SE2d 57) (1989). Pretermitted whether a timely discretionary application would have authorized appellate review of the trial court order at issue here, Ross's application was untimely filed 33 days after the trial court entered its order of November 18, 2020.

To the extent that Ross seeks to appeal the order denying his motion for reconsideration, the motion did not extend the time to appeal ¹ Ross has not provided copies of his motions, in

violation of Court of Appeals Rule 31 (e). the November 18 order, and the order on the motion for reconsideration is not appealable in its own right. See *Bell v. Cohran*, 244 Ga. App.

510, 510-511 (536 SE2d 187) (2000); *Savage v. Newsome*, 173 Ga. App. 271, 271 (326 SE2d 5) (1985). Thus, this application is untimely as to the dismissal order and invalid as to the order dismissing his motion for reconsideration.

For these reasons, the application is hereby DISMISSED for lack of jurisdiction. See *Boyle*, 190 Ga. App. at 734. Court of Appeals of the State of Georgia Clerk's Office, Atlanta, _____ 01/19/2021 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.