

COURT OF APPEALS OF THE STATE OF GEORGIA

Ronnie Davis v. The State

No. A22A1351 (Ga. Ct. App. May 20, 2022) · No. A22A1351 · Decided May 20, 2022

SUMMARY

The Georgia Court of Appeals vacated an order denying Ronnie Davis’s motion for an out-of-time appeal from his rape conviction and remanded for dismissal of the motion. Relying on Cook v. State and Rutledge v. State, the court held that such motions were no longer available in trial courts and that any remedy lay in habeas corpus.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	May 20, 2022
DOCKET	A22A1351
DISPOSITION	vacated
PROCEDURAL POSTURE	Davis appealed the trial court's denial of his motion for an out-of-time appeal from his 2015 guilty plea to rape.
PRECEDENTIAL VALUE	published
PARTIES	Ronnie Davis v. The State

TOPICS

- appellate procedure
- post-conviction relief
- habeas corpus
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- post-conviction relief
- habeas corpus

QUESTIONS PRESENTED

1. Whether the trial court properly denied, rather than dismissed, Davis's motion for an out-of-time appeal after the Georgia Supreme Court eliminated the judicially created out-of-time-appeal procedure.

HOLDINGS

1. After the Georgia Supreme Court eliminated the judicially created out-of-time-appeal procedure, Davis had no right to file such a motion in the trial court; any available remedy lies in habeas corpus.
2. The trial court's order denying Davis's motion for an out-of-time appeal was vacated, and the case was remanded with directions to dismiss the motion.

KEY QUOTATIONS

“Davis, therefore, “had no right to file a motion for an out-of-time appeal in the trial court; his remedy, if any, lies in habeas corpus.””

FACTUAL BACKGROUND

Davis entered a guilty plea to rape in January 2015. In March 2022, he sought an out-of-time appeal in the trial court, but the trial court denied his motion.

PROCEDURAL HISTORY

In January 2015, Davis pleaded guilty to rape. In March 2022, he filed a motion for an out-of-time appeal in the trial court, which denied the motion. Davis appealed that order to the Court of Appeals of Georgia.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court was directed to enter an order dismissing Davis's motion for an out-of-time appeal.

CASES CITED

- Cook v. State, ___ Ga. ___ (5) (Case No. S21A1270, decided March 15, 2022)
- Rutledge v. State, ___ Ga. ___, ___ (Case No. S21A1036, decided March 15, 2022)

OPINION

PER CURIAM.

Court of Appeals of the State of Georgia ATLANTA, _____ May 20, 2022 The Court of Appeals hereby passes the following order: A22A1351. RONNIE DAVIS v. THE STATE. In January 2015, Ronnie Davis entered a guilty plea to rape.

In March 2022, Davis filed a motion for an out-of-time appeal. The trial court denied the motion, and Davis filed this appeal. The Georgia Supreme Court recently eliminated the judicially created out-of- time-appeal procedure in trial courts. Cook v. State, ___ Ga. ___ (5) (Case No. S21A1270, decided March 15, 2022). This holding is to be applied to “all cases that are currently on direct review or otherwise not yet final.” Id. Davis, therefore, “had no right to file a motion for an out-of-

time appeal in the trial court; his remedy, if any, lies in habeas corpus.” Rutledge v. State, ___ Ga. ___, ___ (Case No. S21A1036, decided March 15, 2022).

Rather than denying Davis’s motion, the trial court should have dismissed it. See *id.* Accordingly, the trial court’s order denying the motion for out-of-time appeal is hereby VACATED and this appeal is hereby REMANDED to the trial court, which is DIRECTED to enter an order dismissing the motion for out-of-time appeal. Court of Appeals of the State of Georgia Clerk’s Office, Atlanta, _____ 05/20/2022 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.