

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.

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.