



Court of Appeals of Georgia

SCANNED

9.19.15

September 19, 2015

TO: Mr. Anthony T. Barnett, GDC1001052439, Macon State Prison, Post Office Box 426,
Oglethorpe, Georgia 31068

RE: **A14D0482. Anthony T. Barnett v. The State**

CHECK RETURN

- Your check number _____ in the amount of _____ written on the account of your firm for the filing fee in _____ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by _____.

APPLICATION - DISPOSED

- The referenced appeal was granted on August 27, 2014. I have enclosed a copy of the Court's order for your review.**

CASE STATUS - PENDING

- The above referenced appeal is pending in your name before this Court. The appeal was docketed in the _____ Term and a decision must be rendered by the Court by the end of the _____ Term which ends on _____.

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.

Court of Appeals of the State of Georgia

ATLANTA, August 27, 2014

The Court of Appeals hereby passes the following order:

A14D0482. ANTHONY T. BARNETT v. THE STATE.

Anthony Barnett pled guilty to two counts of armed robbery in April of 2013. In May of 2014, Barnett filed a motion to withdraw his plea and to vacate or reduce his sentence because his plea was not voluntarily or knowingly entered. The trial court denied the motion, and Barnett filed an application for discretionary appeal.

A sentencing court may modify a sentence within 1 year of its imposition or within 120 days after remittitur following a direct appeal, whichever is later. See OCGA § 17-10-1 (f); *Frazier v. State*, 302 Ga. App. 346, 347-348 (691 SE2d 247) (2010). Once this statutory period expires, as it has here, a sentencing court may modify a sentence only if it is void. *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004). And a sentence is void only if it imposes punishment that the law does not allow. *Von Thomas v. State*, 293 Ga. 569, 571 (748 SE2d 446) (2013). Here, Barnett does not assert a valid void sentence claim, arguing instead that his plea was not knowingly or voluntarily made. Thus, the denial of his motion to vacate or reduce his sentence is not directly appealable. Orders resolving out-of-time motions to withdraw guilty pleas, however, have been treated by our Supreme Court as directly appealable. See *Ellison v. State*, 283 Ga. 461 (660 SE2d 373) (2008); *Smith v. State*, 283 Ga. 376 (659 SE2d 380) (2008). Because the trial court's order here also denies Barnett's motion to withdraw his plea, he is therefore entitled to a direct appeal.

We will grant an otherwise timely application for discretionary appeal if the lower court's order is subject to direct appeal. See OCGA § 5-6-35 (j). Accordingly, this application is hereby GRANTED, and Barnett shall have ten days from the date of this order to file a notice of appeal with the trial court. If he has already filed a

notice of appeal in the trial court, he need not file a second notice. The clerk of the trial court is DIRECTED to include a copy of this order in the record transmitted to the Court of Appeals.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 08/27/2014

*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.*

Stephen E. Castle
_____, Clerk.

9-7-15

RECEIVED IN OFFICE
2015 SEP 10 PM 4:06
CLERK OF SUPERIOR COURT
COURT HOUSE

Court of Appeals of
The State of Georgia Clerk's Office
Attention: MR. STEPHEN E. CASTLE

PEACE + Blessings Mr. Castle this letter is about my
APPEAL that was GRANTED! (8-27-14) it's been over a year
& I still don't know the status of my case. I wrote
the appellate Division & they told me that they could not
represent me in my ^(Director G.P.D.C) APPEAL proceedings because my case
was peculiar. Mr. Long D. VO, stated this case is peculiar
because it was initiated without jurisdiction in the
superior court. He also stated that who ever granted
my appeal didn't have the jurisdiction & that there is
an appeal, but it is a frivolous appeal because the litigation is
seeking relief a court has NO power to grant. I also would
like to know what is the NAME of the judge that granted my
Appeal please, im in a state of confusion & was hoping
that you could elaborate. First things first do I have
a court date yet if not what is the status? what is the judge's NAME
that granted the order on 8-27-2014 & why wasn't his signature
on ~~the~~ order? & can you elaborate on what this
Mr. Long D. VO, Director of G.P.D.C has stated about
the granting of my appeal? your assistance is extremely
appreciated & needed please write back soon I leave as I
came Peace + Blessings...

Anthony T. Barnett
9-7-15

Requesting: →
Council