

In the Georgia Court of Appeals

State of Georgia, :
v. :
Wilson Carstaffin, Jr., :
Appellant :

A13A0417
Indictment No. :
08SC64719

RECEIVED IN OFFICE
2015 JAN - 7 PM 3:52
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA

Motion

Comes now the appellant, Wilson Carstaffin, Jr., pro se, asking that this court reverse the sentencing court's decision to deny petitioner's Motion to Reduce Sentence. The sentencing court states that it lacks the jurisdiction to reduce my sentence. O.C.G.A 17-10-1 (f) states that: "Within one year of the date upon which the sentence is imposed, or within (120) days after receipt by the sentencing court of the remittitur upon affirmance of the judgement after direct appeal, whichever is later, the court imposing the sentence has the jurisdiction, power, and authority to correct or reduce the sentence and to suspend or probate all or any part of the sentence imposed. ..." Appellant will show that he was within (120) days of the remittitur upon affirmance of the judgement after direct appeal.

Appellant States the Following:

- Appellant was convicted in Fulton County, Georgia on November 04, 2011.
- A Motion for New Trial was filed and later denied on June 28, 2012.
- My appeal with the Georgia Court of Appeals was denied on May 29, 2013.

- The Georgia Supreme Court denied me on January 06, 2014 (date of the remittitur)
- Appellant's Motion to Reduce Sentence was filed on February 19, 2014 with the sentencing court. I received a stamped filed copy back from the clerk of the sentencing court.
- Appellant's Motion to Reduce Sentence was filed within (120) days of the remittitur.
- Appellant's Proposal for modification pursued was filed on May 12, 2014. I received a stamped file copy back from the sentencing court. This was an addition to the motion to reduce sentence.
- The sentencing court denied my Motion to Reduce Sentence on July 08, 2014 because it lacked the jurisdiction.
- Appellant filed a Motion for Reconsideration on September 08, 2014. I received no reply to my Motion for Reconsideration.

Appellant is aware that the original sentence was entered on November 04, 2011 but ask that his sentence be considered for a modification or reduction pursuant to O.C.G.A. 17-10-1(f).

It is the appellant's understanding that the sentencing court refused to consider his Motion to Reduce Sentence because it lacked the jurisdiction to do so because of the amount of time which had elapsed between my conviction date and my Motion to Reduce Sentence filing date. It is also my understanding that O.C.G.A. 17-10-1(f) state that the clock does not start until after the appellant has exhausted his direct appeal. Appellant's direct appeal ended when he received the remittitur from the Georgia Supreme Court on January 06, 2014. My motion to Reduce Sentence was filed on February 19, 2014, well within

(120) days after receipt of the remittitur by the sentencing Court.

Closing

Appellant believes that he has shown that his Motion to Reduce Sentence was filed within (120) days after receipt by the sentencing court of the remittitur upon affirmance of the judgment after direct appeal. Appellant also prays that he has not misunderstood the law and that this court reverse the sentencing court's decision to deny my Motion to Reduce Sentence.

Respectfully submitted, this 06th day of January, 2019

W

Wilson Carstaffin, Jr., prose.

Long State Prison

1000684628

P.O. Box 70

Ludowice, GA 31316