Court of Appeals
of the State of Georgia

ATLANTA, December 08, 2014

The Court of Appeals hereby passes the following order:

A15A0546. MARCEL GORDON v. THE STATE.

In 2005, Marcel Gordon pled guilty to armed robbery and other offenses. He moved to withdraw his plea and also sought habeas relief. Although the Supreme Court granted him a certificate of probable cause, he ultimately lost his habeas claim. Gordon then renewed his efforts to withdraw his plea, asking the trial court to rule on his still-pending motion. The trial court entered an order denying the motion and, two months later, Gordon requested an out-of-time appeal. On January 24, 2014, the trial court denied his request. Gordon did not appeal. Instead, he filed a "second" motion for out-of-time appeal, essentially seeking reconsideration of the January 24 order. The court denied Gordon's second motion, and, on September 15, 2014, Gordon filed this appeal. We, however, lack jurisdiction.

Although a criminal defendant may appeal from a trial court order denying his request for an out-of-time appeal, a notice of appeal must be filed within 30 days after entry of an appealable order. See OCGA § 5-6-38 (a). The denial of a motion for reconsideration is not directly appealable. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). And the filing of such a motion does not extend the time for appealing the underlying judgment – in this case, the January 24 order. Id. Gordon's notice of appeal, therefore, is invalid as to the order denying his motion for reconsideration and untimely as to the January 24 order. Accordingly, we lack jurisdiction to consider this appeal, which is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, 12/08/2014

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. Castlen, *Clerk.*