Court of Appeals
of the State of Georgia

ATLANTA, February 24, 2016

The Court of Appeals hereby passes the following order:

A16A0942. JAMIL LEEPER v. THE STATE.

On March 5, 2012, Jamil Leeper pled guilty to a number of offenses. He subsequently filed a motion for sentence reduction, which the trial court denied on August 16, 2012. In 2015, he filed an out-of-time motion for sentence reduction. The trial court denied the motion, and Leeper filed both a discretionary appeal and a direct appeal. We dismissed the discretionary appeal as untimely. See Case No. A16D0195. We, likewise, must dismiss this direct appeal.

Under OCGA § 17-10-1 (f), a court may modify a sentence during the year after its imposition or within 120 days after remittitur following a direct appeal, whichever is later. See *Frazier v. State*, 302 Ga. App. 346, 348 (691 SE2d 247) (2010). Once this statutory period expires, a trial court may modify only a void sentence. Id. A direct appeal does not lie from the denial of a motion to modify a sentence filed outside the statutory time period unless the motion raises a colorable claim that the sentence is, in fact, void. Id. A sentence is void only if it imposes punishment that the law does not allow. *Von Thomas v. State*, 293 Ga. 569, 572 (2) (748 SE2d 446) (2013).

In his motion, Leeper essentially asked the trial court to exercise its discretion to reduce his sentence out of fairness. But "[a]ssertions taking issue with the procedure employed in imposing a valid sentence or questioning the fairness of an imposed sentence do not allege a sentence is void." (Citation and punctuation omitted.) *Coleman v. State*, 305 Ga. App. 680, 680-681 (700 SE2d 668) (2010). Accordingly, Leeper's motion did not raise a colorable void-sentence argument, the trial court had no power to grant the motion, and Leeper is not entitled to appellate

review of the order denying it. See id. This appeal is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 02/24/2016
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.*