Court of Appeals
of the State of Georgia

ATLANTA, March 18, 2016

The Court of Appeals hereby passes the following order:

A16A1191. GARY FORD v. THE STATE.

On March 28, 2013, Gary Ford was convicted of two counts of aggravated assault, two counts of robbery by force, kidnapping, and aggravated sexual battery. Thereafter, on December 22, 2015, the trial court denied Ford's motion for new trial. On January 26, 2016, Ford filed a notice of appeal to this Court.[1]

A notice of appeal must be filed within 30 days after entry of the appealable order. See OCGA § 5-6-38 (a). The proper and timely filing of a notice of appeal is an absolute requirement to confer jurisdiction on this Court. See *Rowland v. State*, 264 Ga. 872 (1) (452 SE2d 756) (1995). Ford's notice of appeal, filed 35 days after entry of the order, is untimely, and this appeal is therefore DISMISSED for lack of jurisdiction.

We note, however, that Ford was represented by counsel before the trial court and may be entitled to pursue an out-of-time appeal. He is therefore informed of the following in accordance with *Rowland v. State*, supra at 875-876: This appeal has been dismissed because you failed to file a timely notice of appeal. If you still wish to appeal, you may petition the trial court for leave to file an out-of-time appeal. If the trial court grants your request, you will have 30 days from the entry of that order to file a notice of appeal referencing your conviction. If the trial court denies your

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[1] Ford also filed a direct appeal from the trial court's denial of his pre-trial plea in bar based upon an alleged violation of his constitutional right to a speedy trial. This appeal was dismissed because Ford was not entitled to a direct appeal, but instead should have followed the interlocutory application process. See *Ford v. State*, 319 Ga. App. 655 (738 SE2d 111) (2013).

request, you will have 30 days from the entry of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.

The Clerk of Court is directed to send a copy of this order to Ford and to Ford's attorney, and the latter is also directed to send a copy to Ford.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 03/18/2016
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.*