Court of Appeals
of the State of Georgia

ATLANTA, May 25, 2016

The Court of Appeals hereby passes the following order:

A16D0365. GARY FORD v. THE STATE.

On August 25, 2009, Gary Ford pled guilty to aggravated battery, robbery by force, and battery. Ford subsequently filed a number of motions to vacate, which the trial court denied. Most recently, Ford filed a "Petition for Equitable Relief from Judgment Due to Fraud," which the trial court construed as a motion to vacate. The trial court denied the motion on April 5, 2016, and Ford filed this direct appeal. We lack jurisdiction.

"[A] petition to vacate or modify a judgment of conviction is not an appropriate remedy in a criminal case." *Harper v. State*, 286 Ga. 216, 218 (1) (686 SE2d 786) (2009). Any appeal from an order denying or dismissing such a motion must be dismissed. See id. at 218 (2); *Roberts v. State*, 286 Ga. 532, 532 (690 SE2d 150) (2010). A direct appeal may lie from an order denying a motion to vacate or correct a void sentence, but only if the defendant raises a colorable claim that the sentence is, in fact, void. See *Harper*, supra at 217 n.1; *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). "Motions to vacate a void sentence generally are limited to claims that – even assuming the existence and validity of the conviction for which the sentence was imposed – the law does not authorize that sentence, most typically because it exceeds the most severe punishment for which the applicable penal statute provides." *von Thomas v. State*, 293 Ga. 569, 572 (2) (748 SE2d 446) (2013). Accordingly, when a sentence is within the statutory range of punishment, it is not void. *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004).

Here, Ford does not argue that his sentence exceeded legal limits; rather, he claims, among other arguments, that he was fraudulently indicted and received

ineffective assistance of counsel. These are challenges to the validity of his convictions, not his sentence. See *Brown v. State*, 297 Ga. App. 738 (678 SE2d 172) (2009) (challenge alleging ineffective assistance of counsel does not assert a ground upon which a conviction can be declared void); *Jones v. State*, 290 Ga. App. 490, 493 (1) (659 SE2d 875) (2008) (challenge regarding indictment does not raise a valid void sentence claim). Because Taylor has not raised a colorable void-sentence claim, this appeal is hereby DISMISSED for lack of jurisdiction. See *Roberts*, supra. Because Ford has not raised a colorable argument that his sentence is void, this appeal is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 05/25/2016
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.*