Court of Appeals
of the State of Georgia

ATLANTA, December 13, 2016

The Court of Appeals hereby passes the following order:

A17D0187. ANTHONY JACKSON v. THE STATE.

Anthony Jackson was convicted of aggravated assault, aggravated battery, and burglary, and his convictions were affirmed on direct appeal in 2012. See *Jackson v. State*, 316 Ga. App. 588 (730 SE2d 69) (2012). In 2016, Jackson filed motions to amend his sentence computation and for an out-of-time appeal. On September 1, 2016, the trial court denied Jackson's motions. Jackson filed this application for discretionary appeal on November 28, 2016, challenging the denial of his motion for an out-of-time appeal. We lack jurisdiction for two reasons.

First, because Jackson already has had a direct appeal, he is not entitled to an out-of-time appeal. See *Richards v. State*, 275 Ga. 190, 191 (563 SE2d 856) (2002) ("[T]here is no right to directly appeal the denial of a motion for out-of-time appeal filed by a criminal defendant whose conviction has been affirmed on direct appeal.").

Moreover, to be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, Jackson filed

his application 88 days after the trial court's order was entered. Accordingly, the application is untimely and is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 12/13/2016
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.*