Court of Appeals
of the State of Georgia

ATLANTA, January 10, 2017

The Court of Appeals hereby passes the following order:

A17A0838. ERIC MATTHEW STEPHENS v. THE STATE.

In 2013, Eric Matthew Stephens pled guilty to two counts of burglary and was sentenced as a recidivist to ten years. In 2016, Stephens filed a motion to vacate a void sentence, arguing that he was not given proper notice of the State's intent to seek recidivist punishment.[1] The trial court denied the motion, and Stephens filed this appeal.

A direct appeal lies from the denial of a motion to correct a void sentence when the defendant raises a colorable claim that the sentence is, in fact, void or illegal. See *Burg v. State*, 297 Ga. App. 118, 119 (676 SE2d 465) (2009). The State's failure to provide proper notice of intent to seek recidivist punishment does not render the subsequent sentence void. See *Ward v. State*, 299 Ga. App. 63, 64-65 (682 SE2d 128) (2009). As Stephens has failed to raise a colorable claim regarding the validity of his sentence, he presents nothing for this Court to review. His appeal is therefore DISMISSED. See id.

[1] Stephens also argues that the State improperly relied on certain convictions that were more than ten years old. However, OCGA § 17-10-7, which governs the imposition of recidivist sentencing, does not limit the use of convictions to those entered within ten years.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 01/10/2017

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.*