Court of Appeals
of the State of Georgia

ATLANTA, April 13, 2017

The Court of Appeals hereby passes the following order:

A17A1438. MALCOM JACKSON v. THE STATE.

Following his convictions for armed robbery, possession of a firearm during the commission of a felony, and possession of a firearm by a convicted felon, Malcom Jackson was sentenced to life imprisonment. We affirmed his convictions on appeal. See *Jackson v. State*, 294 Ga. App. 555 (669 SE2d 514) (2008). In 2015, Jackson filed a motion to vacate and correct void sentence, arguing that he was improperly sentenced as a recidivist. The trial court denied the motion, and Jackson filed this direct appeal. We lack jurisdiction.

A direct appeal may lie from an order denying a motion to vacate a void sentence only if the defendant raises a colorable claim that the sentence is, in fact, void. See *Harper v. State*, 286 Ga. 216, 217 n. 1 (686 SE2d 786) (2009); *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). 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, Jackson does not argue that his sentence falls outside the permissible statutory range, and therefore he has not raised a colorable void-sentence claim. Indeed, his sentence fell within the statutory range of punishment, regardless of his status as a recidivist. See OCGA § 16-8-41 (b) (providing that the maximum term of imprisonment for armed robbery, regardless of recidivist status, is life).

Accordingly, this appeal is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 04/13/2017
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.*