



SUPREME COURT OF GEORGIA  
Case No. S19A1596

August 19, 2019

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LEVITICUS A. SWIFT v. THE STATE.

Swift, whose convictions for malice murder, felony murder, aggravated assault, and kidnapping were affirmed in *Swift v. State*, 274 Ga. 807 (560 SE2d 19) (2002), filed a timely notice of appeal from the trial court's order denying his "Motion for De Novo Hearing." While the appeal is properly in this Court as it arose from a murder case, appellant has identified no statute or constitutional provision which authorizes such an attack on a conviction that has already been affirmed on direct appeal. As this Court routinely dismisses appeals from unauthorized efforts to attack a conviction, see *Williams v. State*, 287 Ga. 192 (695 SE2d 244) (2010); *Harper v. State*, 286 Ga. 216, 217 (686 SE2d 786) (2009), the instant appeal hereby is dismissed.

*All the Justices concur.*

SUPREME COURT OF THE STATE OF GEORGIA  
Clerk's Office, Atlanta

I certify that the above is a true extract from the  
minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto  
affixed the day and year last above written.

*Theresa S. Bane*, Clerk

IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA

STATE OF GEORGIA, )  
 )  
vs. ) CRIMINAL ACTION FILE  
 ) NO. 00-CR-3932-7  
 )  
LEVITICUS A. SWIFT, )  
Defendant. )

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**ORDER DENYING MOTION FOR DE NOVO HEARING**

This matter came before the Court on Defendant's Motion for De Novo Hearing filed May 20, 2019. Defendant was convicted by a jury of murder and other offenses in March of 2001. After a direct appeal, the conviction and sentence were affirmed. Swift v. State, 274 Ga. 807 (2002).

Several of Defendant's claims were addressed in his direct appeal and are res judicata.

He also alleges that the indictment omitted an essential element. But “[a]n allegation that an indictment was deficient because it did not contain all the essential elements of the crime is, in essence, a special demurrer seeking greater specificity.” State v. Wilson, 318 Ga. App. 88 (2012). As such, this argument is untimely and has been waived.

Lastly, he argues that his arrest warrant lacked probable cause. This issue could have been raised on direct appeal, was not, and has been waived as a result. Shields v. State, 276 Ga. 669 (2003).

The Motion is DENIED.

SO ORDERED this the 6<sup>th</sup> day of June 2019.

  
LATISHA DEAR JACKSON, Judge  
Superior Court of DeKalb County  
Stone Mountain Judicial Circuit

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