

IN THE CIRCUIT COURT OF COLBERT COUNTY, ALABAMA

STATE OF ALABAMA )  
V. ) Case No.: CC-2012-000172.61  
WEEMS RONALD EUGENE 289449 )  
Defendant. )

**ORDER**

MOTION TO VACATE JUDGMENT filed by WEEMS RONALD EUGENE 289449 is hereby DENIED.

DONE this 10<sup>th</sup> day of December, 2019.

/s/ JACQUELINE M. HATCHER  
CIRCUIT JUDGE

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THE STATE OF ALABAMA -- JUDICIAL DEPARTMENT  
THE ALABAMA COURT OF CRIMINAL APPEALS

CR-19-0465

Ronald Eugene Weems, Appellant

vs.

State of Alabama, Appellee

Appeal from Colbert Circuit Court No. CC-12-172.61

ORDER

Ronald Eugene Weems appeals the circuit court's summary denial of his motion to vacate judgment pursuant to Rule 60(b)(4), Ala. R. Civ. P., in which he alleged that the circuit court's 2015 dismissal of his second Rule 32 petition is void.<sup>1</sup> Specifically, Weems argued that he was denied due process because he received ineffective assistance of counsel during his previous Rule 32 petition and appeal from the dismissal of that petition. Weems filed his motion on September 6, 2019, and the circuit court denied the motion on December 10, 2019.

Rule 32.4, Ala. R. Crim. P., provides, in pertinent part, that "[p]roceedings under this rule shall be governed by the Rules of Criminal Procedure, except that the trial court in its sole discretion may allow the taking of depositions for discovery or for use at trial." Thus, Rule 60(b), Ala. R. Civ. P., has no application to a Rule 32 postconviction petition.

"The right of appeal is wholly statutory and is authorized in criminal cases from a judgment of conviction." McCray v. State, 46 Ala. App. 588, 589, 246 So. 2d 475, 476 (Ala. Crim. App. 1971). 'Appeals lie only from judgments of conviction, and then only on those counts upon which there is a finding of guilt.' Thornton v. State, 390 So. 2d 1093, 1096 (Ala. Crim. App. 1980). 'An appeal cannot be taken from an order

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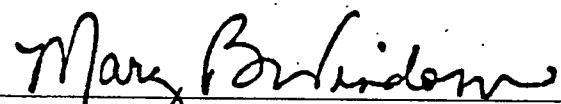
<sup>1</sup>Weems filed a Rule 32 petition, his second, in 2014; the circuit court denied the petition following an evidentiary hearing. This Court affirmed the denial on appeal by unpublished memorandum. See Weems v. State, (CR-14-1094), 219 So. 3d 736 (Ala. Crim. App. 2015)(table).

subsequent to the judgment of conviction unless authorized by statute.  
Harris v. State, 44 Ala. App. 632, 632, 218 So. 2d 285, 286 (1969). All statutes that authorize appeals are to be strictly construed. See Wood v. Birmingham, 380 So.2d 394 (Ala. Crim. App. 1980)."

Dixon v. City of Mobile, 859 So. 2d 462, 463 (Ala. Crim. App. 2003). This Court knows of no statute or rule that authorizes the appeal of a circuit court's denial of a Rule 60(b) motion pertaining to a postconviction petition.<sup>2</sup> Additionally, the filing of a postjudgment motion does not extend the trial court's jurisdiction beyond 30 days after the denial or dismissal of a petition for postconviction relief. See Loggins v. State, 910 So. 2d 146 (Ala. Crim. App. 2005). As such, Weems's motion is not permitted, and the denial of such a motion will not support an appeal. Accordingly, this appeal is due to be, and is hereby, **DISMISSED**. It is further ordered that the certificate of judgment issue forthwith.

Windom, P.J., and Kellum, McCool, and Cole, JJ., concur. Minor, J., dissents.

Done this 20th day of May, 2020.

  
MARY B. WINDOM, PRESIDING JUDGE

cc: Hon. Jacqueline M. Hatcher, Judge  
Hon. Mark R. Eady, Clerk  
Ronald Eugene Weems  
John J. Davis, Assistant Attorney General  
Office of the Attorney General

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<sup>2</sup>A challenge to the circuit court's handling of a previous Rule 32 petition was not properly before the circuit court and is not properly before this Court. Rather, Weems should have raised such a claim after the circuit court denied his previous petition and on appeal from that denial. See Wallace v. State, 959 So. 2d 1161, 1164 (Ala. Crim. App. 2006) ("[T]he proper avenue in which to challenge alleged errors in the adjudication of the prior Rule 32 petitions is either to file a mandamus petition or to appeal from the dismissal of those petitions rather than to file a new petition.").

# COURT OF CRIMINAL APPEALS STATE OF ALABAMA

MARY B. WINDOM  
Presiding Judge  
J. ELIZABETH KELLUM  
J. CHRIS McCOOL  
J. WILLIAM COLE  
RICHARD J. MINOR  
Judges



D. Scott Mitchell  
Clerk  
Gerri Robinson  
Assistant Clerk  
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Fax (334) 229-0521

June 4, 2020

**CR-19-0465**

Ronald Eugene Weems v. State of Alabama (Appeal from Colbert Circuit Court:  
CC12-172.61)

## ORDER

The Court of Criminal Appeals ORDERS that the certificate of judgment issued by this Court on May 20, 2020, be, and the same is hereby, recalled.

Done this the 4th day of June, 2020.

*Mary B. Windom*

Mary B. Windom, Presiding Judge  
Court of Criminal Appeals

cc: Hon. Jacqueline M. Hatcher, Circuit Judge  
Hon. Mark R. Eady, Circuit Clerk  
Ronald Eugene Weems, Pro Se  
John J. Davis, Asst. Attorney General

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**COURT OF CRIMINAL APPEALS  
STATE OF ALABAMA**

D. Scott Mitchell  
Clerk  
Gerri Robinson  
Assistant Clerk



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August 7, 2020

**CR-19-0465**

Ronald Eugene Weems v. State of Alabama (Appeal from Colbert Circuit Court:  
CC12-172.61)

**NOTICE**

You are hereby notified that on August 7, 2020, the following action was taken in the above referenced cause by the Court of Criminal Appeals:

Application for Rehearing Overruled.

*D. Scott Mitchell*

D. Scott Mitchell, Clerk  
Court of Criminal Appeals

cc: Hon. Jacqueline M. Hatcher, Circuit Judge  
Hon. Mark R. Eady, Circuit Clerk  
Ronald Eugene Weems, Pro Se  
John J. Davis, Asst. Attorney General

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# IN THE SUPREME COURT OF ALABAMA



September 11, 2020

1190955

Ex parte Ronald Eugene Weems. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Ronald Eugene Weems v. State of Alabama) (Colbert Circuit Court: CC-12-172.61; Criminal Appeals : CR-19-0465).

## CERTIFICATE OF JUDGMENT

WHEREAS, the petition for writ of certiorari in the above referenced cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on September 11, 2020:

**Writ Denied. No Opinion.** Sellers, J. - Parker, C.J., and Bolin, Wise, and Stewart, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Julia J. Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true, and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 11th day of September, 2020.

A handwritten signature in black ink, appearing to read "Julia Jordan Weller".

Clerk, Supreme Court of Alabama

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**