

IN THE SUPREME COURT OF ALABAMA



March 19, 2021

1200328

Ex parte Larry G. Coker. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Larry G. Coker v. State of Alabama) (Pell City Circuit Court: CC-07-285.61; Criminal Appeals : CR-20-0180).

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 March 19, 2021:

Writ Denied. No Opinion. Wise, J. - Parker, C.J., and Bolin, Sellers, 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 19th day of March, 2021.

Julia Jordan Weller
Clerk, Supreme Court of Alabama

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

CR-20-0180

Larry G. Coker v. State of Alabama (Appeal from Pell City Division, St. Clair Circuit Court: CC07-285.61)

CERTIFICATE OF JUDGMENT

To the Clerk of the above noted Trial Court, Greetings:

WHEREAS, the appeal in the above-referenced cause has been considered by the Court of Criminal Appeals; and

WHEREAS, an order was issued this date in said cause containing the judgment indicated below:

Appeal Dismissed

NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure and the order of dismissal, it is hereby certified that the aforesaid judgment is final.

Witness. D. Scott Mitchell, Clerk
Court of Criminal Appeals, on this
the 19th day of March, 2021.

D. Scott Mitchell

Clerk
Court of Criminal Appeals
State of Alabama

cc: Hon. Billy R. Weathington, Jr., Circuit Judge
Hon. Annette Manning, Circuit Clerk
Larry G. Coker, Pro Se
Office of Attorney General

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
(334) 229-0751
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February 10, 2021

CR-20-0180

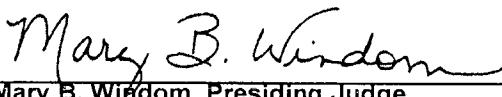
Larry G. Coker v. State of Alabama (Appeal from Pell City Division, St. Clair Circuit Court: CC07-285.61)

ORDER

More than 14 days have passed since this Court issued an order in the above-referenced cause allowing the appellant 14 days to pay the docket fee prescribed in Rule 35(A)(b) of the Alabama Rules of Appellate Procedure or to provide proof that he/she had been granted leave to proceed on appeal in forma pauperis or has a motion pending with the trial court seeking leave to proceed on appeal in forma pauperis. In said order, the appellant was placed on notice that his/her failure to comply within the allotted time would result in this appeal being dismissed with prejudice.

Upon consideration of the above and because the appellant has failed to comply with the above-referenced order within the allotted time and has failed to show good cause for such failure, the Court of Criminal Appeals orders that this appeal be, and the same is hereby, DISMISSED. Having this date dismissed this appeal, the Court further orders that the certificate of judgment shall issue forthwith.

Done this the 10th day of February, 2021.



Mary B. Windom, Presiding Judge
Court of Criminal Appeals

cc: Hon. Billy R. Weathington, Jr., Circuit Judge
Hon. Annette Manning, Circuit Clerk
Michele Seay, Court Reporter
Larry G. Coker, Pro Se
Office of Attorney General

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

CR-20-0180

Larry G. Coker v. State of Alabama (Appeal from Pell City Division, St. Clair Circuit Court: CC07-285.61)

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Court of Criminal Appeals; and

WHEREAS, the judgment indicated below was entered in this cause on February 10th 2021:

Dismissed for Failure to Pay Docket Fee

NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure, it is hereby certified that the aforesaid judgment is final.

Witness. D. Scott Mitchell, Clerk
Court of Criminal Appeals, on this
the 10th day of February, 2021.

D. Scott Mitchell

Clerk
Court of Criminal Appeals
State of Alabama

cc: Hon. Billy R. Weathington, Jr., Circuit Judge
Hon. Annette Manning, Circuit Clerk
Larry G. Coker, Pro Se
Office of Attorney General

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

CR-15-1177

Larry G. Coker v. State of Alabama (Appeal from Pell City Division, St. Clair Circuit Court: CC07-285.61)

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above referenced cause has been duly submitted and considered by the Court of Criminal Appeals; and

WHEREAS, the judgment indicated below was entered in this cause on December 14th 2016:

Reversed and Remanded.

NOW, THEREFORE, pursuant to Rule 41 of the Alabama Rules of Appellate Procedure, it is hereby certified that the aforesaid judgment is final.

Witness D. Scott Mitchell, Clerk
Court of Criminal Appeals, on this
the 4th day of January, 2017.

D. Scott Mitchell

Clerk
Court of Criminal Appeals
State of Alabama

cc: Hon. Bill Weathington, Circuit Judge
Hon. Annette Manning, Circuit Clerk
Larry G. Coker, Pro Se
Marc Alan Starrett, Asst. Atty. Gen.

THE STATE OF ALABAMA -- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

CR-15-1177

Larry G. Coker, Appellant

vs.

State of Alabama, Appellee

Appeal from St. Clair Circuit Court, Pell City Division, No. CC-07-285.61

ORDER

Larry G. Coker appeals from the circuit court's summary denial of what Coker styled as a Motion to Correct Sentence. The motion was filed in the county of Coker's conviction. The motion raised issues cognizable in a Rule 32 petition, but it does not appear that it was treated as such by the circuit court.

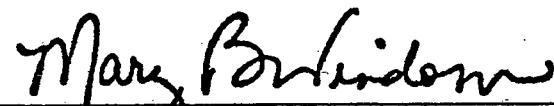
"[T]he substance of a motion and not its style determines what kind of motion it is." Ex parte Deramus, 882 So. 2d 875, 876 (Ala. 2002)(quoting Evans v. Waddell, 689 So. 2d 23, 26 (Ala. 1997)). Rule 32.4, Ala. R. Crim. P., states that a postconviction petition that seeks relief from a conviction or sentence shall be treated as a proceeding under Rule 32. Here, Coker clearly challenged his sentence, and thus, the petition should have been reviewed pursuant to the procedures found in Rule 32, Ala. R. Crim. P.

ACCORDINGLY, it is ORDERED that the circuit court's judgment be REVERSED and the cause REMANDED to the St. Clair Circuit Court (Pell City Div.) with directions to set aside its order on Coker's Motion to Correct Sentence and address the motion as a Rule 32 petition pursuant to the procedures found in Rule 32, Ala. R. Crim. P. The motion, now considered Coker's Rule 32 petition, remains filed in the circuit court with its original filing date; however, it is within the circuit court's discretion to require Coker to refile his petition on the form provided in the appendix to Rule 32, Ala. R. Crim. P., provided that the circuit court allows Coker a reasonable time (no less than 60 days) to refile a properly verified Rule 32 petition on the proper form.

MOREOVER, it is a jurisdictional requirement that Coker must pay the circuit court filing fee associated with a Rule 32 petition, or request and be granted in forma pauperis status. See Whitson v. State, 891 So. 2d 421 (Ala. Crim. App. 2004); Maxwell v. State, 897 So. 2d 426 (Ala. Crim. App. 2004); Broadway v. State, 881 So. 2d 1068 (Ala. Crim. App. 2003), and Jackson v. State, 854 So. 2d 157 (Ala. Crim. App. 2002).

Windom, P.J., and Welch, Burke, and Joiner, JJ., concur. Kellum, J., not sitting.

Done this 14th day of December, 2016.



MARY BECKER WINDOM, PRESIDING JUDGE

cc: Hon. Bill Weathington, Judge
Hon. Annette Manning, Clerk
Larry G. Coker, pro se
Marc Alan Starrett, Office of the Attorney General
Office of the Attorney General

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