

SUPREME COURT OF GEORGIA
Case No. S21A1163

July 7, 2021

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MANVESTER EVANS III v. THE STATE

Appellant, who pled guilty to murder and other crimes in 2004, seeks to appeal the trial court's May 10, 2021 order denying his April 8, 2021 "Supplemental Out-of-Time Appeal Motion," which was effectively his fourth motion seeking such relief. This Court previously dismissed Appellant's earlier attempts to appeal the trial court's orders denying his first three motions for out-of-time appeal. See *Evans v. State*, S21A0080 (Sept. 28, 2020); *Evans v. State*, S20D1456 (July 21, 2020); *Evans v. State*, S18A1140 (May 21, 2018); *Evans v. State*, S18D1050 (April 19, 2018); *Evans v. State*, S12D1148 (April 11, 2012). Again, because duplicative appeals are unauthorized, see *Richards v. State*, 275 Ga. 190, 191 (563 SE2d 856) (2002), and because *Collier v. State*, 307 Ga. 363 (834 SE2d 769) (2019) did not alter this rule, especially where Appellant's first attempted appeal was untimely, see *Evans*, S12D1148, this Court lacks jurisdiction. Accordingly, the Court dismisses this appeal.

Nahmias, C. J., Boggs, P. J., and Peterson, Warren, Bethel, Ellington, McMillian, and LaGrua, JJ., 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.

, Clerk

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SUPREME COURT OF GEORGIA
Case No. S06A0940.

Atlanta March 1, 2006

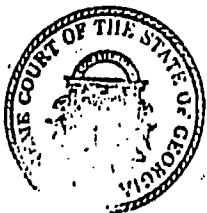
The Honorable Supreme Court met pursuant to adjournment.
The following order was passed.

MANVETER EVANS III v. THE STATE

From the Superior Court of Toombs County.

Appellant filed this direct appeal seeking review of the superior court's November 3, 2005 order denying his petition for a copy of the record of his October 2004 guilty plea to murder and aggravated assault. Although this Court has subject matter jurisdiction over the appeal, appellant's notice of appeal was due no later than December 5, 2005 and as appellant's notice was not filed until December 6, 2005, it is one day late. Therefore, this appeal must be and hereby is dismissed. OCGA § 5-6-38.

All the Justices concur except Sear, C.J., Hunsteln, P.J. and Thompson, J.



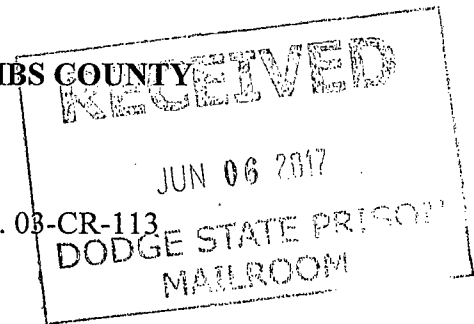
SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

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.

Lynn M. Stinchcomb
Chief Deputy Clerk

IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA



STATE OF GEORGIA

v.

MANVESTER EVANS III,
GDC# 1174774,
Defendant.

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CASE NO. 03-CR-113

Motion in Arrest of Judgment

RULING AND ORDER

Defendant was indicted on June 19, 2003, for one count of Murder, one count of Felony Murder, four counts of Aggravated Assault, one count of Burglary, one count of Possession of a Firearm During the Commission of a Crime, and one count of Possession of a Firearm by a Convicted Felon, and the State filed a Notice of Intention to Seek the Death Penalty. Defendant received appointed representation by two qualified capital defense attorneys and preparations for trial were begun. The State and Defendant were able to work out a negotiated plea agreement on October 29, 2004, in lieu of going to trial, and Defendant entered a plea of guilty on count one (Murder) and counts three through six (Aggravated Assault), and the remaining counts were nolle prosequed. Defendant was sentenced by the Court on October 29, 2004, to life in prison on count one (Murder), twenty years on count three (Aggravated Assault), twenty years on count four (Aggravated Assault), twenty years on count five (Aggravated Assault), and twenty years on count six (Aggravated Assault), each to run consecutive.

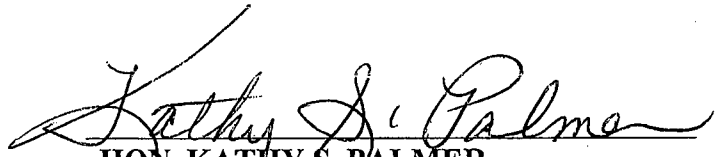
Defendant now files the instant Motion in Arrest of Judgment.

"[A] motion in arrest of judgment 'must be made during the term at which the judgment was obtained.'" Lay v. State, 289 Ga. 210, 211, 710 S.E.2d 141, 142 (2011). "[U]ntimeliness of the motion is ... a defect that limits the trial court's authority to grant the motion." Id. at 212.

Here, Defendant's Motion is extremely untimely.

As the Defendant's motion was filed outside the term in which the judgment was entered, this Court is without jurisdiction to entertain the motion. Accordingly, Defendant's Motion in Arrest of Judgment is hereby **DISMISSED**.

SO ORDERED this 5th day of June, 2017.


HON. KATHY S. PALMER
Chief Judge of Superior Court
Middle Judicial Circuit

CERTIFICATE OF SERVICE

I, Marsha C. Riner, secretary to Chief Judge Kathy S. Palmer, do hereby certify that I have this date served the within Ruling and Order upon the individuals listed below by mailing a true copy of the same to them by U.S. Mail in envelopes having sufficient postage thereon to insure delivery and addressed as follows:

MANVESTER EVANS III

GDC No. 1174774

Dodge State Prison

P.O. Box 276

Chester, GA 31012

OFFICE OF DISTRICT ATTORNEY

Middle Judicial Circuit

200 Courthouse Square, Suite 1

Lyons, GA 30436

this 5th day of June, 2017.



Marsha C. Riner

Secretary to Hon. Kathy S. Palmer

Chief Judge of Superior Court

Middle Judicial Circuit

P.O. Box 330

Swainsboro, GA 30401

Phone : 478-237-3260

Fax : 478-237-0949

IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA

RECEIVED

MAR 20 2018

DODGE STATE PRISON

Case No: 03-CR-1113 ROOM

STATE OF GEORGIA.

vs.

MANVESTER EVANS III,
GDC#1174774

Defendant.

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MOTION FOR OUT OF TIME
APPEAL

RULING AND ORDER

Defendant is before the Court on a Motion for Out of Time Appeal. Defendant contends that he is entitled to an out-of-time appeal due to the fact that he received ineffective assistance of plea counsel and that his indictment was defective.

Defendant was indicted on June 19, 2003, for one count of Murder, one count of Felony Murder, four counts of Aggravated Assault, one count of Burglary, one count of Possession of a Firearm During the Commission of a Crime, and one count of Possession of a Firearm by a Convicted Felon. The State filed a Notice of Intention to Seek the Death Penalty. Defendant received appointed representation by two qualified capital punishment attorneys and preparations for trial were begun.

The State and Defendant were able to work out a negotiated plea agreement in lieu of going to trial. Defendant entered a plea of guilty on count one (Murder) and counts three through six (Aggravated Assault), and the remaining counts were all nolle prosequed on October 29, 2004. Defendant was sentenced by the Court to life in prison on count one (Murder), twenty years on count three (Aggravated Assault), twenty years on count four (Aggravated Assault), twenty years on count five (Aggravated Assault), and twenty years on count six (Aggravated Assault), each to run consecutive to the previous count.

"[The defendant] has the burden of showing that he is entitled to an out-of-time appeal." Barnes v. State, 274 Ga. 783, 559 S.E.2d 446 (2002). The Defendant has to show that

he actually had a right to file a timely direct appeal which was frustrated by the ineffective assistance of his counsel. If he "had no right to file even a timely notice of appeal from the judgment of

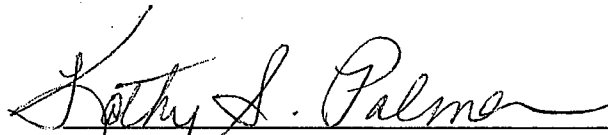
conviction entered on (his) guilty plea, he [would not be] entitled to be informed of a non-existent 'right' to appeal."

Id.; *citing Smith v. State*, 266 Ga. 687, 470 S.E.2d 436 (1996). And "[a] direct appeal will lie from a judgment of conviction and sentence entered on a guilty plea "only if the issue on appeal can be resolved by facts appearing in the record." Smith; *citing Morrow v. State*, 266 Ga. 3, 463 S.E.2d 472 (1995).

Here, Defendant's sworn statement and the plea transcript indicate that Defendant knowingly and voluntarily entered his plea of guilty. The Sworn Statement shows that Defendant answered "yes" beside each statement indicating that he understood that he was waiving his right to trial by jury, his right to confront witnesses, his right to present evidence, and his right to testify. The record further shows that the Court engaged in a lengthy colloquy where it reviewed these rights with the Defendant prior to the entry of his plea. The transcript further shows that Defendant was informed as to the maximum possible sentence.

Accordingly, Defendant's Motion for Out of Time Appeal is hereby **Denied**.

SO ORDERED this 19th day of March, 2018.

A handwritten signature in cursive script, reading "Kathy S. Palmer", written over a horizontal line.

HON. KATHY S. PALMER
Chief Judge of Superior Court
Middle Judicial Circuit

CERTIFICATE OF SERVICE

I, Marsha C. Riner, secretary to Chief Judge Kathy S. Palmer, do hereby certify that I have this date served the within Ruling and Order upon the individuals listed below by mailing a true copy of the same to them by U.S. Mail in envelopes having sufficient postage thereon to insure delivery and addressed as follows:

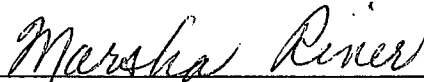
OFFICE OF DISTRICT ATTORNEY

Middle Judicial Circuit
200 Courthouse Square, Suite 1
Lyons, GA 30436

MANVESTER EVANS, III

GDC No. 1174774
Dodge State Prison
P. O. Box 276
Chester, GA 31012

this 19th day of March, 2018.



Marsha C. Riner
Secretary to Hon. Kathy S. Palmer
Chief Judge of Superior Court
Middle Judicial Circuit

P.O. Box 330
Swainsboro, GA 30401
Phone: 478-237-3260
Fax : 478-237-0949



IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA

RECEIVED

JUL 29 2019

DODGE STATE PRISON
JAILROOM

STATE OF GEORGIA,

vs.

MANVESTER EVANS,
GDC# 1174774,
Defendant.

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Case No.: 03-CR-113

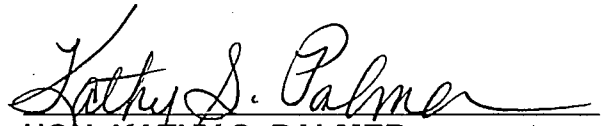
Motion to Modify Sentence

RULING AND ORDER

Defendant has filed a "Motion to Remold Sentence" seeking to modify his sentence, which does not require an oral hearing. McCrosky v. State, 234 Ga. App. 321, 506 S.E.2d 400 (1998); Ga. Criminal Trial Practice § 26:46 (2018-2019 ed.).

After considering the motion and the prior proceedings in the case, the Court hereby orders that Defendant's Motion to Modify Sentence is **DENIED**.

SO ORDERED this 26th day of July, 2019.


HON. KATHY S. PALMER
Chief Superior Court Judge
Middle Judicial Circuit

CERTIFICATE OF SERVICE

I, Marsha C. Riner, secretary to Chief Judge Kathy S. Palmer, do hereby certify that I have this date served the within Ruling and Order upon the individuals listed below by mailing a true copy of the same to them by U.S. Mail in envelopes having sufficient postage thereon to ensure delivery and addressed as follows:

MANVESTER EVANS

GDC No. 1174774

Dodge State Prison

P.O. Box 276

Chester, GA 31012

OFFICE OF DISTRICT ATTORNEY

Middle Judicial Circuit

126 W. Grady Ave., #3

Lyons, GA 30436

this 26th day of July, 2019.



Marsha C. Riner

Secretary to Hon. Kathy S. Palmer

Chief Judge of Superior Court

Middle Judicial Circuit

P.O. Box 330

Swainsboro, GA 30401

Phone : 478-237-3260

Fax : 478-237-0949

IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

vs.

MANVESTER EVANS, III,
GDC# 1174774,
Defendant.

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Case No.: 03-CR-113

Motion for Out-of-Time Appeal

RECEIVED

JUN 12 2020

DODGE STATE PRISON
MAILROOM

RULING AND ORDER

Pending before this Court is Defendant's "Supplemental Out-of-Time Appeal Motion," filed on March 6, 2020. Due to the resignation of Judge Palmer this matter will be addressed by me, Judge Reeves.

Defendant pled guilty on October 29, 2004, to murder and aggravated assault. In the instant motion Defendant cites Collier v. State, 307 Ga. 363 (2019), which establishes the precedent for a motion for out-of-time appeal to be considered by the court where counsel failed to advise a defendant of the right to appeal from a guilty plea, as the basis to seek relief.

Defendant is experienced with the Georgia Supreme Court's appellate process.¹ Most recently, Defendant sought relief from this Court's March 20, 2018 denial of a second motion for out-of-time appeal by filing with the Supreme Court a discretionary appeal, docketed as S18D1050, and a notice of appeal, docketed as S18A1140. Defendant contended the indictment was defective and that he had received ineffective assistance of counsel. Both appeals were dismissed due to jurisdictional concerns. Evans v. State, S18A1140 (May 21, 2018), *citing* Evans v. State, S18D1050

¹ Defendant's associated cases include: S06A0940, S09A1704, S12A1919, S12D1148, S13A0913, and S17A2006.

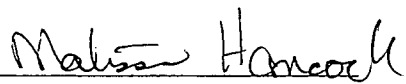
CERTIFICATE OF SERVICE

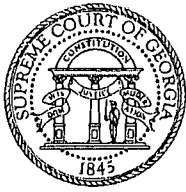
I, Malissa Hancock, Judicial Assistant to Judge Robert S. Reeves, do hereby certify that I have this day served the within order upon the individuals listed below by mailing a true copy of said notice to them by placing same in envelopes having sufficient postage thereon to insure delivery and sending via U. S. Mail addressed as follows:

S. Hayward Altman
District Attorney
Middle Judicial Circuit
P. O. Box 590
Swainsboro, GA 30401-0590

Manvester Evans, III, #0001174774
Dodge State Prison
PO Box 276
Chester, GA 31012

This 9th day of June, 2020.


Malissa Hancock
P. O. Box 1347
Swainsboro, GA 30401
(478) 237-6191



SUPREME COURT OF GEORGIA
Case No. S20D1456

July 21, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MANVESTER EVANS III v. THE STATE.

Applicant, who pled guilty to murder and other crimes in 2004, seeks to appeal the trial court's order denying his third motion for out-of-time appeal. This Court previously dismissed applicants' earlier attempts to appeal the trial court's orders denying his first two motions for out-of-time appeal. Because duplicative appeals are unauthorized, see *Richards v. State*, 275 Ga. 190, 191 (563 SE2d 856) (2002), and because *Collier v. State*, 307 Ga. 363 (834 SE2d 769) (2019), did not alter this rule, especially where applicant's first attempted appeal was untimely, see *Evans v. State*, S12D1148 (April 11, 2012), this Court lacks jurisdiction. Accordingly, the Court dismisses this discretionary application.

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. Bame, Clerk

In the
Supreme Court of Georgia

Manvester Evans III,
Appellant,

v.

State of Georgia,
Appellee.

**BRIEF OF APPELLEE
BY THE ATTORNEY GENERAL**

Christopher M. Carr 112505
Attorney General

Beth Burton 027500
Deputy Attorney General

Paula K. Smith 662160
Senior Assistant Attorney General

Meghan H. Hill 342572
Assistant Attorney General

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mhill@law.ga.gov

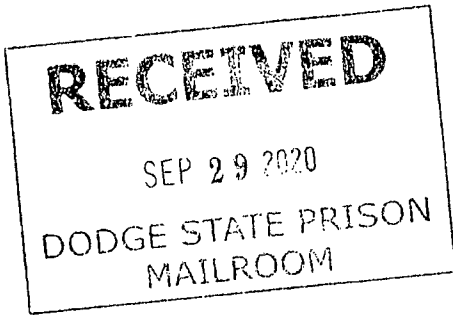


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STATEMENT OF THE CASE

Appellant Manvester Evans III was indicted by a Toombs County grand jury on June 19, 2003, for malice murder (count 1), felony murder (count 2), aggravated assault (counts 3-6), burglary (count 7), possession of a firearm during the commission of a crime (count 8), and possession of a firearm by a convicted felon (count 9), in the death of Rodney Mobley Jr and the assaults of Cheryl Evans, Blair Jones, Mary Jones, and Kathy Mann. (R. 17-21)¹. The State gave notice of its intention to seek the death penalty on November 19, 2003. (R. 40-42).

On October 28, 2004, Appellant entered a negotiated guilty plea to malice murder (count 1) and four counts of aggravated assault (counts 3-6). (R. 295-300)². He was sentence to life for malice murder (count 1), and twenty years consecutive for each count aggravated assault (counts 3-6). (R. 297).

On January 12, 2012, more than seven years later, Appellant filed a *pro se* motion for an out-of-time appeal. (R. 581-90; 600-04). The trial court denied Appellant's motion for an out-of-time appeal on

¹ Citations to the clerk's record prepared for this appeal are "R" followed by the page number(s).

² The State entered an order of nolle prosequi as to the remaining charges pursuant to the plea agreement. (R. 297).

February 15, 2012, finding that the issues Appellant sought to raise in his appeal “cannot be determined wholly by reference to the record but require development in a post-plea hearing.” (R. 611-13). Appellant filed a discretionary appeal from that decision, which was dismissed on April 11, 2012, as untimely filed. (R. 636).

On June 2, 2017, Appellant filed a second motion for an out-of-time appeal. (R. 802-07). Again, the trial court denied Appellant’s motion, citing as precedent that “[a] direct appeal will lie from a judgment of conviction and sentence entered on a guilty plea ‘only if the issue on appeal can be resolved by facts appearing in the record.’” (R. 814-15).

Appellant appealed that decision, and this Court dismissed his appeal on April 19, 2018, finding:

Applicant pled guilty to murder and other charges in 2004, and this Court dismissed the discretionary application seeking review of the denial of his first motion for out-of-time appeal. *Evans v. State*, S12D1149 (April 11, 2012). He returned to the trial court and filed another motion for out-of-time appeal from the underlying conviction, which was denied on March 20, 2018. Although applicant timely filed the underlying application seeking appellate review of that order, a party cannot obtain multiple bites at the appellate apple through such procedural machinations, and therefore, this appeal hereby is dismissed.

(R. 835; 838).

On November 15, 2019, Appellant filed a third *pro se* motion for an out-of-time appeal, which he subsequently supplemented. (R. 870-75; 886-93; 899-908). In his motion, Appellant cited to *Collier v. State*, 307 Ga. 363, 834 S.E.2d 769 (2019), and claimed, among other things, that his guilty plea counsel failed to properly inform him of his rights to appeal; that he asked if he could appeal and counsel informed him that he could not appeal a guilty plea; and, since his conviction, he has never waived from his wish to appeal. (R. 871-72).

Without having a hearing, the trial court denied the motion on June 8, 2020, ruling:

Defendant pled guilty on October 29, 2004, to murder and aggravated assault. In the instant motion Defendant cites *Collier v. State*, 307 Ga. 363 (2019), which establishes the precedent for a motion for out-of-time appeal to be considered by the court where counsel failed to advise a defendant of the right to appeal from a guilty plea, as the basis to seek relief.

Defendant is experienced with the Georgia Supreme Court's appellate process. Most recently, Defendant sought relief from this Court's March 20, 2018 denial of a second motion for out-of-time appeal by filing with the Supreme Court a discretionary appeal, docketed as S18D1050, and a notice of appeal, docketed as S18A1140. Defendant contended the indictment was defective and that he had received ineffective assistance of counsel. Both appeals were dismissed due to jurisdictional concerns...

"[B]ecause appellant has sought to appeal the denial of a prior motion for out-of-time appeal...an appeal could not be sustained as to the denial of his second such motion." "[A] party cannot obtain multiple bites at the appellate apple through such procedural machinations..." — *Evans*, S18D1050.

Therefore, this Court will not consider the instant motion as the Georgia Supreme Court has refused to consider appeals of Defendant's prior motions for out-of-time appeal with similar basis of the instant motion.

(R. 910-11).

Appellant filed a notice of appeal on June 19, 2020. This appeal follows.

ARGUMENT AND CITATION OF AUTHORITY

The case should be remanded for the trial court to conduct a hearing to determine if Appellant's right to an appeal was frustrated by his counsel.

In his motion for an out-of-time appeal, Appellant alleged that his guilty plea counsel was ineffective for failing to inform him of his right to appeal, that his counsel specifically told him upon asking that he could not appeal a guilty plea, and that he has desired to appeal since the time of his conviction and sentence. (R. 871-72). Given Appellant's allegations regarding the reason he failed to seek a timely direct appeal from his guilty plea, under *Collier*, which is an intervening change in the law, this case should be remanded for a hearing on whether counsel's purported ineffective assistance deprived Appellant of an appeal from his guilty plea.

The trial court correctly noted that Appellant's prior attempts to appeal denials of motions for out-of-time appeals were dismissed on jurisdictional grounds, including that Appellant would not be entitled to multiple appeals. (R. 636; 835; 838). However, the decisions denying Appellant's motions for out-of-time appeals occurred on February 15, 2012 and June 2, 2017, both prior to this Court's decision in *Collier*, 307 Ga. at 363. (R. 611-13; 814-15). More significantly, those denials relied on the very law that *Collier* overruled. (R. 611-13) (finding that the allegations in Manchester's motion "cannot be determined wholly by reference to the record but require development in a post-plea hearing."); (R. 814-15) (noting that "a direct appeal will lie from a judgment of convictions and sentences entered on a guilty plea 'only if the issue on appeal can be resolved by facts appearing in the record.'"); *Collier*, 307 Ga. at 367 ("We also overrule a peculiar line of cases where we have held that a criminal defendant's right to appeal directly from a judgment entered on a guilty plea is qualified in scope; that is, the right to appeal is limited to those cases in which the issue on appeal can be 'resolved by facts appearing in the record.'").

In *White v. State*, 302 Ga. 315, 806 S.E.2d 489 (2017), this Court made clear that a defendant's representation by counsel does not end

when a judgment of conviction and sentence are entered on a guilty plea. Instead:

[A]t a minimum, legal representation continues – unless interrupted by entry of an order allowing counsel to withdraw or compliance with the requirements for substitution of counsel, see USCR 4.3(1)-(3) – through the end of the term of court at which a trial court entered a judgment of conviction and sentence

White, 302 Ga. at 319.

Appellant has alleged that his counsel failed to properly inform him of his right to appeal, and indeed affirmatively misinformed him, and that resulted in his failure to file a notice of appeal within the time required. *Collier* made clear that a “criminal defendant is entitled to an out-of-time appeal if his counsel’s constitutionally deficient performance deprived him of an appeal of right that he otherwise would have pursued.” *Collier*, 307 Ga. at 364. However, a defendant “who does not allege and prove such an excuse for failing to file a timely direct appeal is not entitled to an out-of-time appeal. *Id.*

Appellant did allege that his counsel’s constitutionally deficient performance deprived him of this right, but there was no hearing held to inquire into this claim. (R. 870-73). As such, this case should be remanded to the trial court for a hearing so that Appellant may have an opportunity to prove his contention and the State may have an

opportunity to raise applicable defenses³. *Collier*, 307 Ga. at 376. *See also Burley v. State*, 842 S.E.2d 851 (Ga. 2020) (case remanded for trial court to conduct a hearing to determine if the lack of a timely appeal was due to counsel's ineffectiveness).

³ Appellant has filed several state and federal habeas petitions, challenging his convictions. *See Evans v. Nelson*, No. 06-V-324 (Mitchell Super. Ct. 2007), *CPC denied*, No. S07H1111 (Ga. Jul. 13, 2007); *Evans v. Hart*, No. 10-V-0508 (Ware Super. Ct., dismissed as untimely, 2010), *CPC denied*, No. S11H0208 (Ga. Nov. 30, 2011); *Evans v. Allen*, No. 2013-CV-1282 (Lowndes Super. Ct., dismissed as untimely and successive, 2013), *CPC denied*, No. S14H0423 (Ga. Sep. 8, 2014); *Evans v. Nelson*, No. CV-607-55 (S.D. Ga., dismissed as untimely, 2007).

CONCLUSION

Wherefore, Appellee prays that the Court vacate the trial court's order and remand the case for hearing on whether Appellant was denied a direct appeal in 2004 due to ineffective assistance of counsel.

Respectfully submitted,

Christopher M. Carr 112505
Attorney General

Beth Burton 027500
Deputy Attorney General

/s/ Paula K. Smith
Paula K. Smith 662160
Senior Assistant Attorney General

/s/ Meghan H. Hill
Meghan H. Hill 342572
Assistant Attorney General

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the within and foregoing BRIEF, prior to filing the same, by depositing a copy thereof, postage paid, in the United States Mail, properly addressed, upon:

Manvester Evans III
GDC # 1174774
Dodge State Prison
Post Office Box 276
Chester, Georgia 31012

Hon. S. Hayward Altman
District Attorney
Middle Judicial Circuit
Post Office Box 590
Swainsboro, Georgia 30401

This 23rd day of September, 2020.

/s/ Meghan H. Hill
Meghan H. Hill
Assistant Attorney General



SUPREME COURT OF GEORGIA
Case No. S21A0080

*This is the ruling
After the ruling
request my case to be vacated
Copy
Remanded back*

September 28, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MANVESTER EVANS III v. THE STATE.

This appeal arises from the court's June 9, 2020 order denying appellant's "Supplemental Out-of-Time Appeal Motion." However, appellant previously sought review of this same order, via an application for discretionary appeal, and this Court dismissed that application as duplicative of an appeal dismissed as untimely in 2012. *Evans v. State*, S20D1456 (July 21, 2020); see also *Evans v. State*, S12D1148 (April 11, 2012). For the same reasons, this appeal 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



SUPREME COURT OF GEORGIA
Case No. S21A0080

October 19, 2020

The Honorable Supreme Court met pursuant to
adjournment.

The following order was passed.

MANVESTER EVANS III v. THE STATE.

Upon consideration of the Motion for Reconsideration filed
in this case, it is ordered that it be hereby denied.

All the Justices concur, except Warren, J., not participating.

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 A. Barnes, Clerk

RECEIVED

MAY 13 2021

IN THE SUPERIOR COURT OF TOOMBS COUNTY
STATE OF GEORGIA

DODGE STATE PRISON
MAILROOM

STATE OF GEORGIA,

vs.

MANVESTER EVANS, III,
GDC# 1174774,
Defendant.

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Case No.: 03-CR-113

Motion for Out-of-Time Appeal

RULING AND ORDER

Pending before this Court is Defendant's "Supplement Out-of-Time Appeal Motion," filed on April 8, 2021.

Defendant pled guilty on October 29, 2004, to murder and aggravated assault. In the instant motion Defendant cites Collier v. State, 307 Ga. 363, 834 S.E. 2d 769 (2019), which establishes the precedent for a motion for out-of-time appeal to be considered by the court where counsel failed to advise a defendant of the right to appeal from a guilty plea, as the basis to seek relief.

Defendant is experienced with the Georgia Supreme Court's appellate process.¹ Most recently, Defendant sought relief from this Court's June 9, 2020, denial of his third motion for out-of-time appeal by filing with the Supreme Court a discretionary appeal, docketed as S20D1456, and a notice of appeal, docketed as S21A0080. Defendant contended the indictment was defective and that he had received ineffective assistance of plea counsel. Both appeals were dismissed for being duplicative and untimely. Evans v. State, S21A0080 (September 28, 2020), *citing* Evans v. State, S20D1456 (July 21, 2020). See also Richards v. State, 275 Ga. 190, 191, 563 S.E.2d 856, 858

¹ Defendant's associated cases include: S06A0940, S09A1704, S12A1919, S12D1148, S12D2061, S13A0913, S17A2006, S18D1050, and S18A1140.

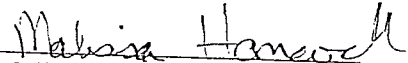
CERTIFICATE OF SERVICE

I, Malissa Hancock, Judicial Assistant to Judge Robert S. Reeves, do hereby certify that I have this day served the within order upon the individuals listed below by mailing a true copy of said notice to them by placing same in envelopes having sufficient postage thereon to insure delivery and sending via U. S. Mail addressed as follows:

Tripp Fitzner
District Attorney
Middle Judicial Circuit
P. O. Box 590
Swainsboro, GA 30401-0590

Manvester Evans, III, #0001174774
Dodge State Prison
PO Box 276
Chester, GA 31012

This 10th day of May, 2021.


Malissa Hancock
P. O. Box 1347
Swainsboro, GA 30401
(478) 237-6191