

FINAL COPY

284 Ga. 280

S08A0985. BAKER v. THE STATE.

Thompson, Justice.

In 1995 Leroy K. Baker, Jr., pled guilty to malice murder and armed robbery. The pleas were entered pursuant to a written agreement in which the State agreed it would not seek the death penalty and Baker consented to the imposition of consecutive life sentences without the possibility of parole for 30 years. In so doing, Baker also agreed that he waived his right to appeal “any issue that might have already arisen or that might arise during the trial of the issue of sentence in this case.” After five years, Baker filed a motion for out-of-time appeal in which he alleged, inter alia, ineffectiveness of trial counsel. The trial court denied the motion and this Court affirmed, Baker v. State, 273 Ga. 842 (545 SE2d 879) (2001), holding “that appellant’s assertions of ineffective assistance of counsel were without merit in light of appellant’s signed plea agreement in which he waived his appeal rights.” *Id.* at 843 (1). Thereafter, Baker filed another motion for out-of-time appeal (in which he alleged that trial counsel was ineffective) and a motion to correct illegal sentence. The trial court

denied these motions and Baker appeals once again.

1. The trial court did not err in denying the motion for out-of-time appeal.

Baker v. State, supra.

2. Baker asserts his sentence is illegal in that it provides that he is ineligible for parole for 30 years. However, Baker entered into an agreement with the State in which he agreed that he would not seek parole until he served 30 years of his sentence, and the State agreed it would not seek the death penalty. The agreement is valid and enforceable. See Allen v. Thomas, 265 Ga. 518 (458 SE2d 107) (1995). It follows that Baker's sentence is not void or illegal, and that the trial court did not err in denying his motion to correct illegal sentence.

Judgment affirmed. All the Justices concur.

Decided June 30, 2008 – Reconsideration denied July 25, 2008.

Murder. Muscogee Superior Court. Before Judge Peters.

Leroy K. Baker, Jr., pro se.

J. Gray Conger, District Attorney, Shiv Sachdeva, Assistant District Attorney, for appellee.