

In the Supreme Court of Georgia

Decided: January 9, 2012

S11A1971. HAGAN v. THE STATE.

NAHMIAS, Justice.

Appellant Terry Hagan appeals from the trial court's denial of what he styled "An Extraordinary Motion to Withdraw Guilty Plea." We affirm.

On March 9, 2010, during the March 2010 term of the Catoosa County Superior Court,¹ Appellant, who was represented by counsel, pled guilty to the malice murder of one person and the criminal attempt to murder another person and was sentenced to life plus 30 years in prison. Appellant filed his "Extraordinary Motion to Withdraw Guilty Plea" on June 13, 2011, which was during the March 2011 term of court. He contended that the judgment of conviction was void because the indictment failed to allege venue. The trial court denied the motion as untimely and on the merits.

We need not decide the merits, because Appellant's motion was untimely,

¹ The terms for the Catoosa Superior Court begin each year on the "First Monday in March and second Monday in September." OCGA § 15-6-3 (22) (A).

whether considered as a motion to withdraw his guilty plea or as a motion in arrest of judgment. Both sorts of motions must be filed within the same term of court at which the guilty plea or judgment being challenged was entered. See Rubiani v. State, 279 Ga. 299, 299 (612 SE2d 798) (2005) (“[W]hen the term of court has expired in which a defendant was sentenced pursuant to a guilty plea, the trial court lacks jurisdiction to allow the withdrawal of the plea.” (citation omitted)); OCGA § 17-9-61 (b) (“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 SE2d 141) (2011) (same). Appellant’s motion was not filed within the same term at which his guilty plea and the resulting judgment were entered. Accordingly, we affirm the trial court’s denial of Appellant’s motion.

Judgment affirmed. All the Justices concur.