

In the Supreme Court of Georgia

Decided: March 4, 2013

S13A0104. HIGH v. THE STATE.

MELTON, Justice.

Alvin High was convicted of malice murder and burglary following a jury trial in 2005. High appealed, and this Court affirmed his judgment of conviction and sentence. High v. State, 282 Ga. 244 (647 SE2d 270) (2007). High again challenged his conviction by filing a Motion in Arrest of Judgment on August 23, 2011, alleging that his conviction is void because the indictment failed to sufficiently allege venue for the murder count. The trial court denied High's motion, and he brought this appeal, acting pro se.

[High's] motion in arrest of judgment was not filed in the term at which the judgment was obtained, but [five] years later, and was thus untimely. See OCGA § 15–6–3 (37). The untimely motion is “a defect that limits the *trial court's* authority to grant the motion.” (Emphasis in original.) Lay v. State, 289 Ga. 210, 211 (2) (710 SE2d 141) (2011). In such circumstances, this Court affirms the denial of the untimely motion in arrest of judgment. *Id.* at 211 (3).

(Footnotes omitted.) Hammond v. State, 292 Ga. 237, 238 (734 SE2d 396) (2012).

Judgment affirmed. All the Justices concur.