



In the Missouri Court of Appeals
Eastern District
DIVISION THREE

STATE OF MISSOURI,)	No. ED103147
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County, Missouri
vs.)	2107R-00019B-01
)	
DEXTER L. MCKINNIES,)	Honorable David Lee Vincent
)	
Appellant.)	Filed: January 12, 2016

OPINION

Dexter McKinnies' appeal seeks to re-open this Court's dismissal of his prior appeal in this case, a dismissal which became final in 2014. Because we lack jurisdiction, this appeal is dismissed.

Background

In June 2006, McKinnies, then sixteen years old, was charged in juvenile court with two counts of assault in the first degree and two counts of armed criminal action arising out of a shooting on Duke Drive in St. Louis County on June 14, 2006. On July 20, 2006, the juvenile court dismissed those charges, and relinquished its jurisdiction over McKinnies to allow him to be prosecuted as an adult under the general criminal laws of this state.

In February 2007, McKinnies was charged as an adult with two counts of stealing a motor vehicle and two counts of robbery in the first degree arising out of incidents that

occurred in St. Louis County between August 10, 2006 and August 13, 2006. McKinnies pleaded guilty and the court entered judgment sentencing McKinnies to fifteen years in prison. The sentence was ordered to run concurrently with all of McKinnies' then current Missouri Department of Corrections sentences, which included sentences of eighteen years and fifteen years on two separate cases. McKinnies did not directly appeal the judgment in this case.

On April 29, 2014, McKinnies filed a motion to set aside the judgment as void. On May 12, 2014, the circuit court denied that motion, and on May 19, 2014, McKinnies filed his notice of appeal to this Court. On July 30, 2014, this Court dismissed the appeal due to McKinnies' failure to comply with Eastern District Rule 300 and prior orders of this Court. This Court's mandate dismissing the appeal was issued on August 22, 2014. On August 29, 2014, McKinnies filed a motion in this Court seeking to reinstate his appeal. That motion was denied on September 4, 2014.

On August 7, 2014, in the midst of McKinnies' filings relating to his first notice of appeal, McKinnies filed a second notice of appeal, this time to the Missouri Supreme Court, seeking review of this Court's July 30, 2014, order dismissing his first appeal. On July 1, 2015, the Missouri Supreme Court issued its order transferring this matter here.

Discussion

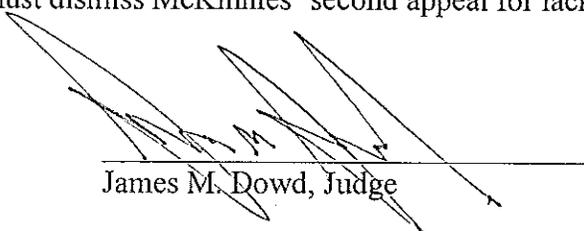
It is an appellate court's duty to examine the record and determine its jurisdiction. *Briley v. Thompson*, 285 S.W.2d 27, 29 (Mo.App. 1955). The fact that the Supreme Court has transferred the case to this Court does not foreclose further review of this Court's jurisdiction. *Id.*

Once an appellate court dismisses an appeal and issues its mandate to the trial court, it loses jurisdiction over the case. *State ex rel. McMullin v. Satz*, 759 S.W.2d 839, 840 (Mo.banc 1988); *State v. Thompson*, 659 S.W.2d 766, 768 (Mo.banc 1983).

A party whose case has been dismissed by the court of appeals may seek relief from that dismissal by requesting rehearing in the court of appeals or transfer to the Supreme Court. See Rules 84.17; 83.02; 83.04; 30.27; 30.26. McKinnies' failure to seek rehearing in this Court or transfer to the Supreme Court rendered the dismissal final and precludes any further appellate review of his underlying convictions because this Court no longer has jurisdiction.

Conclusion

We find McKinnies' second notice of appeal to be nothing more than an attempt to resurrect an appeal that has been dismissed and closed. This Court has no jurisdiction to reopen this appeal and therefore must dismiss McKinnies' second appeal for lack of jurisdiction.



James M. Dowd, Judge

Robert M. Clayton III, P.J. and
Lawrence E. Mooney, J., concur