

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 19th day of September, 2024.

Present: All the Justices

TARON JARRELL THOMAS,

APPELLANT,

against Record No. 230759
 Court of Appeals No. 1566-23-4

COMMONWEALTH OF VIRGINIA,

APPELLEE.

FROM THE COURT OF APPEALS OF VIRGINIA

Upon the petition of Taron Jarrell Thomas (“Thomas”), an appeal is awarded him from a final order entered by the Court of Appeals of Virginia.

Upon further consideration whereof, the Court is of the opinion there is error in the order appealed from.

On August 1, 2022, Thomas was convicted by a jury of second-degree murder, aggravated malicious wounding, attempted robbery, conspiracy to commit robbery, use of a firearm during the commission of a murder, and using a firearm during the commission of aggravated malicious wounding. He was sentenced by the trial court on April 6, 2023 to 106 years’ imprisonment, with 75 years suspended. After discussion between the trial court and counsel regarding defense counsel’s trial schedule and workload, as well as the complexity of Thomas’ appeal, the trial court agreed to stay the sentencing order for 120 days. A sentencing order was issued on May 9, 2023. On May 11, 2023, the trial court issued another order in which it granted a 120 day stay of its May 9 sentencing order “to give the defense adequate time to file proper appeal paperwork.”

Thomas filed a notice of appeal on August 3, 2023. The stay of the final order expired on September 6, 2023. The Court of Appeals summarily dismissed the appeal on September 22, 2023, asserting that “the notice of appeal in this case was not timely filed.” Thomas appealed that decision to this Court.

A trial court speaks through its written orders. *McMillion v. Dryvit Systems, Inc.*, 262 Va. 463, 469 (2001). “There is a distinction between the rendition of a judgment and the entry of

a judgment.” *McDowell v. Dye*, 193 Va. 390, 393 (1952). “All final judgments . . . remain under the control of the trial court and may be modified, vacated, or suspended for twenty-one days after the date of entry . . . [b]ut notwithstanding the finality of the judgment, in a criminal case the trial court may postpone execution of the sentence in order to give the accused an opportunity to apply for a writ of error[.]” Rule 1:1. “The running of time under [Rule 1:1] may be interrupted only by the entry . . . of an order suspending or vacating the final order.” *School Bd. of Lynchburg v. Caudill Rowlett Scott, Inc.*, 237 Va. 550, 556 (1989).

The trial court issued a sentencing order in this case on May 9, 2023. Two days later, the court suspended that order for 120 days, in compliance with Rule 1:1. Thus, a final order was not entered until September 6, 2023. “A notice of appeal filed after the trial court announces a decision or ruling — but before the entry of such judgment or order — is treated as filed on the date of and after the entry.” Rule 5A:6(a). In accordance with the May 11, 2023 order, Thomas had until October 6, 2023, to note his appeal, and he timely filed his notice of appeal on August 3, 2023. The Court of Appeals therefore erred in dismissing the appeal as untimely.

Accordingly, the September 22, 2023 order of the Court of Appeals is reversed and vacated and this case is remanded to the Court of Appeals for further proceedings consistent with this order.

This order shall be certified to the Court of Appeals of Virginia and to the Circuit Court of Prince William County.

A Copy,

Teste:


Clerk