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ADVANCE SHEET HEADNOTE
November 23, 2026

2026 CO 72

No. 25SC165, *Crabtree v. People*—Postconviction Relief—*People v. Crabtree*, 2024 CO 40M, 550 P.3d 656—Concurrent Jurisdiction.

The supreme court holds that motions under Colorado Rule of Criminal Procedure 35(c)(1) and section 18-1-410(1)(f), C.R.S. (2026), are timely filed after a movant files a direct appeal and before the movant's conviction has been affirmed. The court further holds that a Crim. P. 35(c)(1) motion permits a trial court and an appellate court to exercise concurrent jurisdiction over the same conviction, but the appellate court determines whether the trial court proceeds or stays its proceedings. Finally, the court holds that a trial court may resolve such a motion even after the appellate court has issued a mandate in the related direct appeal.

Accordingly, the court vacates the court of appeals' order dismissing Crabtree's appeal of the district court's denial of his Crim. P. 35(c)(1) motion.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 72

Supreme Court Case No. 25SC165
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 24CA1321

Petitioner:

Charles James Crabtree,

v.

Respondent:

The People of the State of Colorado.

Order Vacated
en banc
November 23, 2026

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JUSTICE BLANCO delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE BOATRIGHT**, **JUSTICE HOOD**, **JUSTICE GABRIEL**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.

JUSTICE BLANCO delivered the Opinion of the Court.

¶1 Timing is everything. Here, Charles James Crabtree's case turns on whether he acted within the window the law affords for postconviction motions under Colorado Rule of Criminal Procedure 35(c)(1) and whether Colorado's trial and appellate courts adhered to the jurisdictional boundaries that dictate when each may act.

¶2 Crim. P. 35(c)(1) and its statutory analog, section 18-1-410(1)(f), C.R.S. (2026), provide convicted offenders with a limited opportunity to seek relief based on a significant change in the law. By interpreting those provisions and applying them to Crabtree's case, we clarify the procedure that governs this form of postconviction review. Specifically, we decide (1) the timeframe for filing a Crim. P. 35(c)(1) motion and (2) when trial courts may adjudicate such a motion.

¶3 Ultimately, we vacate the court of appeals' order dismissing Crabtree's appeal of his Crim. P. 35(c)(1) motion with directions to reinstate the appeal.

I. Facts and Procedural History

¶4 This is our second review of Crabtree's case. *See People v. Crabtree*, 2024 CO 40M, 550 P.3d 656 ("*Crabtree I*"). Consequently, *Crabtree I* supplies much of this case's procedural history, although subsequent events also play an important role in our decision.

A. *Crabtree I*

¶5 Crabtree was convicted of felony driving under the influence ("DUI") after a trial judge—not a jury—found that he had prior DUI convictions. *Id.* at ¶ 10, 550 P.3d at 661. After his sentencing, we announced *Linnebur v. People*, 2020 CO 79M, ¶ 33, 476 P.3d 734, 741, holding that defendants are entitled to a jury determination on prior DUI offenses. Crabtree then raised a *Linnebur*-based challenge for the first time on direct appeal, and the court of appeals agreed with him under plain error review. *People v. Crabtree*, 2022 COA 73, ¶¶ 41, 53–54, 519 P.3d 415, 423, 425 (examining the law at the time Crabtree filed his appeal and determining that the trial court plainly erred).

¶6 We granted certiorari and reversed that ruling in *Crabtree I*, holding that plain error review hinges on whether the error was obvious at the time the trial court acted—not at the time of appeal. ¶¶ 41–72, 550 P.3d at 667–71. Because *Linnebur* had not yet been decided when Crabtree was sentenced, we ruled that the trial court did not plainly err and Crabtree's conviction should be reinstated. *Id.* at ¶¶ 46, 72–73, 550 P.3d at 667, 671–72.

¶7 In so ruling, we explained that Crim. P. 35(c)(1) provides a postconviction avenue for addressing significant changes in the law that arise during a pending appeal. *Id.* at ¶¶ 59–60, 550 P.3d at 669 ("Crim. P. 35(c)(1) . . . mitigate[s] any

possible unfairness."). Perhaps picking up on this language, Crabtree later sought to use Crim. P. 35(c)(1) to benefit from *Linnebur*.

B. Post-*Crabtree I* to the Present

¶8 Before our mandate for *Crabtree I* issued, Crabtree sought rehearing and requested a limited remand so he could pursue postconviction relief under Crim. P. 35(c)(1). We denied both requests, noting that the additional Crim. P. 35(c) questions he raised fell outside the scope of *Crabtree I*. *Crabtree I*, ¶ 71 n.16, 550 P.3d at 671 n.16 (added by modification on July 1, 2024); *see also id.* at ¶ 1 n.1, 550 P.3d at 659 n.1. Later, but still before our mandate issued in *Crabtree I*, Crabtree filed a Crim. P. 35(c)(1) motion with the Boulder County District Court. He argued that *Linnebur* constituted a significant change in the law and the interests of justice would be served if the court retroactively applied that change to his felony DUI conviction.

¶9 The district court denied Crabtree's motion on jurisdictional grounds, noting that the mandate in *Crabtree I* had not yet issued. *People v. Crabtree*, No. 17CR1238, at 1 (Dist. Ct., Boulder Cnty., July 5, 2024) (unpublished order). On July 10, 2024, we issued our mandate, returning jurisdiction to the court of appeals. *People v. Crabtree*, (Colo. No. 22SC589, July 10, 2024) (unpublished order). Five days later, the court of appeals issued a final mandate and transferred jurisdiction to the district court, *People v. Crabtree*, (Colo. App. No. 20CA629, July 15, 2024)

(unpublished order), which then reinstated Crabtree's felony DUI conviction and sentence, *People v. Crabtree*, No. 17CR1238, at 1 (Dist. Ct., Boulder Cnty., July 16, 2024) (unpublished order).

¶10 Crabtree appealed the district court's denial of his Crim. P. 35(c)(1) motion. The court of appeals questioned whether the district court had jurisdiction to rule on the motion when it did, *People v. Crabtree*, at 1–2 (Colo. App. No. 24CA1321, Jan. 16, 2025) (unpublished order to show cause), and ultimately dismissed the appeal due to that concern, *People v. Crabtree*, at 1 (Colo. App. No. 24CA1321, Feb. 7, 2025) (unpublished order).

¶11 Crabtree then sought certiorari review from this court, which we granted.[1]

II. Analysis

¶12 After outlining the applicable standard of review, we address (1) the timeframe during which convicted offenders may file a Crim. P. 35(c)(1) motion and (2) when trial courts may adjudicate such a motion.

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[1] We granted certiorari to review these three issues:

1. Whether defendants must seek relief pursuant to Crim. P. 35(c)(1) during the pendency of their appeal.
2. If so, whether the district court has concurrent jurisdiction to rule on a Crim. P. 35(c)(1) motion during the pendency of the appeal.
3. Whether the court of appeals erred when it dismissed the petitioner's appeal on the basis that the trial court's order on appeal was entered without jurisdiction because the mandate had not issued.

A. Standard of Review

¶13 We review the question of whether a court lacked subject matter jurisdiction de novo when there is no factual dispute. *People in Int. of J.W. v. C.O.*, 2017 CO 105, ¶ 17, 406 P.3d 853, 857. Because there is no factual dispute here regarding subject matter jurisdiction, we review that issue de novo.

¶14 Likewise, we apply de novo review when interpreting rules and statutes. *People v. Roberts*, 2026 CO 45, ¶ 14, 591 P.3d 28, 32–33. Here, we interpret Crim. P. 35(c)(1) and section 18-1-410(1)(f)(II) de novo.

¶15 We rely on the provisions' plain language and "presume that a rule [or statute] 'says . . . what it means and means . . . what it says.'" *Roberts*, ¶ 15, 591 P.3d at 33 (omissions in original) (quoting *People v. Weeks*, 2021 CO 75, ¶ 25, 498 P.3d 142, 151). "Even so, the words of a rule [or statute] are not construed in [a] vacuum; we interpret [them] 'as a whole, giving consistent, harmonious and sensible effect to all of its parts.'" *Id.* (quoting *Pineda-Liberato v. People*, 2017 CO 95, ¶ 22, 403 P.3d 160, 164). Thus, we avoid interpretations that "lead to illogical or absurd results." *Pineda-Liberato*, ¶ 22, 403 P.3d at 164.

B. Crabtree Timely Filed a Crim. P. 35(c)(1) Motion

¶16 The first question we confront is whether Crabtree's motion satisfied Crim. P. 35(c)(1) and section 18-1-410(1)(f)(II). These provisions allow a convicted offender to seek relief due to a significant change in the law (1) if he "sought appeal

of a conviction within the time prescribed therefor" and (2) "if judgment on that conviction has not then been affirmed upon appeal." Crim. P. 35(c)(1); *see also* § 18-1-410(1)(f)(II) (same). These two requirements operate as bookends: A motion must be filed after the offender initiates a timely appeal but before the conviction has been affirmed.

¶17 The first requirement is uncontroversial. Movants must file a direct appeal before filing a Crim. P. 35(c)(1) motion. Crim. P. 35(c)(1); *e.g.*, *People v. Hamm*, 2019 COA 90, ¶ 9, 461 P.3d 559, 562. Crabtree met this requirement by pursuing his direct appeal, which culminated in *Crabtree I*, before filing his Crim. P. 35(c)(1) motion.

¶18 Thus, the timeliness of Crabtree's motion turns on the second element: whether his motion was filed before his conviction had "been affirmed upon appeal." Crim. P. 35(c)(1). Because Crabtree filed his motion on July 1, 2024, we must determine whether the affirmance of his conviction occurred before or after that date.

¶19 We consider three dates to determine when Crabtree's conviction was affirmed:

- June 10, 2024, when we announced *Crabtree I*;
- July 10, 2024, when we issued the *Crabtree I* mandate; and
- July 15, 2024, when the court of appeals issued its mandate.

¶20 First, our June 10 announcement of *Crabtree I* concluded that Crabtree's felony DUI conviction *should have been* affirmed by the court of appeals. ¶ 73, 550 P.3d at 672. That decision set the affirmance process in motion, but it did not purport to directly affirm his conviction.

¶21 On the second and third dates, mandates issued. A mandate transfers jurisdiction from an appellate court to a lower court. *Valdez v. Dist. Ct.*, 720 P.2d 974, 975 (Colo. 1986). More than a procedural formality, a mandate "establish[es] the finality of the judgment upon which the parties can rely." *Hrabczuk v. John Lucas Landscaping*, 888 P.2d 367, 368 (Colo. App. 1994).[2] Mandates take effect on the date they are issued—not retroactively to the date of the underlying judgment. C.A.R. 41(d). Indeed, Colorado Appellate Rule 41(b) generally imposes an interval between the date of our judgment and the issuance of the effectuating mandate, allowing us time to consider rehearing petitions and revise our rulings before jurisdiction transfers. Our modification of *Crabtree I* illustrates the vitality of that interval. With this understanding of mandates, we turn to the two mandates at issue in this case.

[2] Historically, mandates were not required by the Colorado Appellate Rules and were not considered necessary to effectuate this court's judgments. *Haggott v. Plains Iron Works Co.*, 218 P. 909, 910 (Colo. 1923) (relying on *Paul v. Luttrell*, 1 Colo. 491, 492–93 (1872)).

¶22 Our July 10 mandate reversed the court of appeals' judgment and returned jurisdiction to that court. By ordering that "the judgment of the Colorado Court of Appeals is JUDGMENT REVERSED," *People v. Crabtree*, (Colo. No. 22SC589, July 10, 2024) (unpublished order), we did not purport to directly affirm Crabtree's conviction. Instead, when read in concert with our judgment, we directed that the court of appeals *shall affirm* Crabtree's felony DUI conviction.

¶23 That brings us to July 15, when the court of appeals issued a mandate ordering that "the judgment of the trial court is AFFIRMED." *People v. Crabtree*, (Colo. App. No. 20CA629, July 15, 2024) (unpublished order). That mandate satisfied the plain language of Crim. P. 35(c)(1) and section 18-1-410(1)(f)(II), and thus, Crabtree's conviction had "been affirmed." Our actions on June 10 and July 10 paved the way, but a conclusion that a conviction *should have been* affirmed and an instruction that it *shall be* affirmed differ from an order affirming a conviction.

¶24 In addition to satisfying the plain language of Crim. P. 35(c)(1) and section 18-1-410(1)(f)(II), identifying July 15 as the date of affirmance is consistent with our precedent that "a conviction becomes final only after the court of appeals has issued a mandate." *People v. Johnson*, 2021 CO 79, ¶ 23, 499 P.3d 1045, 1049 (citing *People v. Cali*, 2020 CO 20, ¶ 24, 459 P.3d 516, 521). It likewise accords with the court of appeals' conclusion in *People v. Cooper*, 2023 COA 113, ¶ 14, 544 P.3d

679, 682, that "section 18-1-410(1)(f)(II) and Rule 35(c)(1) bar any postconviction claims . . . once the conviction has become final."

¶25 Accordingly, we determine that Crabtree's conviction was affirmed when the court of appeals issued its mandate. Because Crabtree filed his motion fourteen days earlier, his motion satisfied the second timing requirement of Crim. P. 35(c)(1).

¶26 Crabtree therefore satisfied both timing requirements by filing his motion after initiating a direct appeal and before the court of appeals affirmed his conviction. From this, we conclude that the district court and the court of appeals erred to the extent they considered Crabtree's motion to be untimely.

C. A Trial Court Has Jurisdiction Over a Crim. P. 35(c)(1) Motion Even While a Direct Appeal Is Pending

¶27 The second question before us is whether a trial court has jurisdiction over a Crim. P. 35(c)(1) motion at the same time an appellate court is exercising jurisdiction over the movant's direct appeal. Crim. P. 35(c)(1) and section 18-1-410(1)(f)(II) do not expressly answer this question. Although it is generally disfavored for a trial court and an appellate court to hold jurisdiction over the same judgment at the same time, we determine that characteristics distinct to Crim. P. 35(c)(1) allow concurrent jurisdiction over the same judgment of conviction in this discrete context.

¶28 Courts generally treat jurisdiction like the conch shell in *Lord of the Flies*.[3] One court at a time may exercise jurisdiction regarding the same judgment over the same parties, and only that court may speak on the substance of the matter. *See Sanoff v. People*, 187 P.3d 576, 578 (Colo. 2008) (discussing the "doctrine of divestment," which prevents a trial court from issuing "rulings affecting [a] judgment subject to appeal"); *see also Town of Minturn v. Sensible Hous. Co.*, 2012 CO 23, ¶¶ 13, 19, 273 P.3d 1154, 1158–59 (discussing the "priority rule," under which a court will not exercise jurisdiction over a matter that was first filed and is pending before another court). Jurisdiction begins with the trial court and then transfers to the appellate court upon the filing of a notice of appeal. C.A.R. 3(a). Later, the appellate court revests the trial court with jurisdiction when it issues a mandate, *Valdez*, 720 P.2d at 975, or a limited remand, *People v. Dillon*, 655 P.2d 841, 844 (Colo. 1982).

¶29 Here, the prosecution asks us to bar district courts from exercising jurisdiction over Crim. P. 35(c)(1) motions until the court of appeals has issued a mandate or a limited remand. The prosecution argues that the divestment

[3] *See* William Golding, *Lord of the Flies* 39 (First Perigee hardcover ed., The Berkley Publ'g Grp. 2003) (1954). When confronted with disorder among the castaways on a desert island, one proposes, "We can't have everybody talking at once. . . . We'll have rules! . . . Lots of rules!" *Id.* The prime rule being that only the holder of the conch shell may speak. *Id.*

doctrine applies without exception: "Courts universally recognize the general principle that once an appeal is perfected[,] jurisdiction over the case is transferred from the trial court to the appellate court for all essential purposes with regard to the substantive issues that are the subject of the appeal." Answer Brief for Respondent, at 13 (quoting *Molitor v. Anderson*, 795 P.2d 266, 268 (Colo. 1990)).

¶30 But *Molitor* did not consider relief under Crim. P. 35(c)(1). It instead addressed whether a district court may vacate a civil judgment after that judgment had been appealed to the court of appeals. *Molitor*, 795 P.2d at 266. Moreover, the petitioners in *Molitor* submitted the same argument to the district court as they had presented to the court of appeals. *Id.* at 267.

¶31 A Crim. P. 35(c)(1) motion operates differently than the vacatur request in *Molitor*. It presents two characteristics that exempt it from the general rule against courts holding concurrent jurisdiction over the same judgment: (1) Crim. P. 35(c)(1) proceedings can be initiated only while the movant's direct appeal is pending, and (2) movants may seek relief through Crim. P. 35(c)(1) that is unavailable on direct appeal. We determine that both characteristics are necessary to reach our conclusion.[4]

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[4] Our decision is confined to Crim. P. 35(c)(1). Other postconviction procedures involve different timing considerations and/or forms of relief. *E.g.*, Crim. P. 35(a), (b), (c)(2). To the extent Crabtree expresses concern that relief under Crim. P. 35(c)(2) must be requested with a Crim. P. 35(c)(1) motion to avoid a procedural bar, his concerns are misplaced. The procedural bar for successive

¶32 First, because the period during which a Crim. P. 35(c)(1) motion may be filed is limited by rule and statute, *see* Part II.B above, we determine that jurisdiction over a Crim. P. 35(c)(1) motion attaches to the trial court upon a timely filing. This is consistent with *Shook v. District Court*, 533 P.2d 41, 42 (Colo. 1975), in which we determined that "[j]urisdiction to grant the [postconviction] relief in the district court attached when the motion for relief was timely filed." Conversely, we cannot identify an instance when either this court or the General Assembly has required movants to file a motion within a certain period without allowing (at least tacitly) the receiving court to exercise jurisdiction upon a timely filing.

¶33 Second, Crabtree's case illustrates that a Crim. P. 35(c)(1) movant may seek relief that is unavailable in a direct appeal. As discussed in Part I.A above, Crabtree argued in *Crabtree I* that his felony DUI conviction should be reversed under *Linnebur*. We rejected that argument under plain error review because *Linnebur* was not decided until after Crabtree had been convicted. *Crabtree I*, ¶ 6, 550 P.3d at 660–61. We then pointed to Crim. P. 35(c)(1) as "mitigat[ing] any possible unfairness" from our ruling because *Linnebur* could be applied to

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claims under Crim. P. 35(c)(3)(VII) applies to postconviction claims brought on "grounds enumerated in [Crim. P. 35](c)(2)," not Crim. P. 35(c)(1). Crim. P. 35(c)(3). In other words, Crim. P. 35(c)(1) is its own thing.

Crabtree's conviction in a Crim. P. 35(c)(1) proceeding. *Id.* at ¶ 59, 550 P.3d at 669. If we were to bar trial courts from assuming jurisdiction over a Crim. P. 35(c)(1) motion when it is filed, then we would create an unjust delay in accessing a form of relief that does not always coincide with the relief available from a direct appeal.

¶34 This difference in available relief distinguishes Crabtree's case from *Molitor*. In that case, we did not determine whether the trial court could have granted the petitioners a form of relief that was unavailable on direct appeal. *See Molitor*, 795 P.2d at 267.

¶35 Therefore, a Crim. P. 35(c)(1) motion creates a rare second conch shell, allowing both the trial court and the appellate court to simultaneously hold jurisdiction over the same judgment. It vests the trial court with jurisdiction over the Crim. P. 35(c)(1) motion even while the appellate court retains jurisdiction over the movant's direct appeal. This remains true in cases like Crabtree's in which the Crim. P. 35(c)(1) motion and the direct appeal involve the same conviction. Consequently, the district court and the court of appeals erred to the extent they concluded that the district court lacked jurisdiction to consider Crabtree's Crim. P. 35(c)(1) motion.

D. When a Crim. P. 35(c)(1) Motion Is Filed, the Appellate Court Shall Direct the Trial Court to Either Stay or Proceed with Deciding the Motion

¶36 Having concluded that Crim. P. 35(c)(1) permits a trial court and an appellate court to hold jurisdiction over the same conviction, we establish a prudential order of operations. We do so to preserve the orderly and efficient administration of justice when either court's rulings could affect the same conviction. *See Molitor*, 795 P.2d at 268–70 (prohibiting a concurrent exercise of jurisdiction, in part, because "[t]he appellate process would indeed become a quagmire of uncertainty if parties could obtain trial court alteration of rulings subject to an appeal during the pendency of that appeal").

¶37 We begin with the parties, who are generally responsible for informing courts of developments that may affect judicial determinations. *See People v. Ray*, 2012 COA 32, ¶ 13, 302 P.3d 289, 294 (noting that courts expect parties to correct deficiencies in the record); C.A.R. 28(i) (allowing parties to give notice of new authorities that are "pertinent and significant"). Accordingly, a Crim. P. 35(c)(1) movant shall notify the appellate court of the motion and the trial court of their direct appeal.

¶38 At that point, we assign the appellate court holding jurisdiction over the movant's direct appeal with the responsibility to instruct the trial court to either stay the Crim. P. 35(c)(1) motion or proceed with adjudicating the motion. This is

a prudential allocation of decision-making authority rather than a question of jurisdiction. Although both courts hold a conch shell, the appellate court is best positioned to decide whether to (1) stay the direct appeal and allow the Crim. P. 35(c)(1) motion to move forward, (2) move forward with the direct appeal and instruct the trial court to stay the Crim. P. 35(c)(1) proceeding, or (3) declare that both proceedings may simultaneously move forward. A direct appeal is necessarily filed before a Crim. P. 35(c)(1) motion, *see* Part II.B above, and encompasses a broader range of challenges than a Crim. P. 35(c)(1) motion, which is limited to claims based on a significant change in the law. *Compare* § 16-12-101, C.R.S. (2026), *with* § 18-1-410(1)(f). The appellate court is therefore better situated to determine priority by assessing the relationship between each proceeding, the likelihood that developments in one may affect the other, and the anticipated timing for the mandate. By assigning this responsibility to the appellate court, we aim to promote judicial efficiency by avoiding unnecessary duplication of effort and to ensure the orderly administration of the case.

E. Trial Courts May Resolve a Crim. P. 35(c)(1) Motion After Appellate Courts Have Resolved a Direct Appeal

¶39 Neither party protests this case being remanded to the district court. Nonetheless, Crabtree worries that the district court may have missed a fourteen-day window, between the time he filed his motion and when the court of appeals issued its mandate, to resolve his motion. This concern stems from our

holding in *People v. Herrera*, 516 P.2d 626, 627–29 (Colo. 1973) (citing § 40-1-510(1)(f), C.R.S. (1963 & Supp. 1971)), in which we invalidated a statute that allowed movants to file—without any temporal limitation—a postconviction motion based on a significant change in the law. We did so because the Colorado Constitution allocates commutation power to the Governor. Colo. Const. art. IV, § 7. The statute in *Herrera* conflicted with this power because it purported to vest the judiciary with a commutation-like power over convictions long since affirmed. *Herrera*, 516 P.2d at 628. If *Herrera* applied here, then Crabtree's motion would be foreclosed.

¶40 We determine that the filing deadline for a Crim. P. 35(c)(1) motion distinguishes it from the statute in *Herrera*. As explained above, Crim. P. 35(c)(1) requires that motions be filed before the conviction has been affirmed on appeal. This sequencing tethers a Crim. P. 35(c)(1) proceeding to a time before the conviction was final. It also ensures that both the executive branch and appellate courts receive notice prior to a conviction's affirmance that an intervening change in the law may allow the trial court to modify or vacate a conviction or sentence. This temporal limitation obviates the constitutional defect that we identified in the *Herrera* statute.

¶41 This is not the first time that a pre-mandate filing has spared a postconviction motion from *Herrera*. In *People v. Thomas*, 525 P.2d 1136, 1137 (Colo.

1974), we declined to apply *Herrera* because the movant "filed his motion before his conviction had become final." Consistent with *Thomas*, we hold that a Crim. P. 35(c)(1) motion may be adjudicated after the direct appeal's final mandate has been issued so long as the motion was filed before that mandate.

III. Conclusion

¶42 For these reasons, we vacate the court of appeals' order dismissing Crabtree's appeal of his Crim. P. 35(c)(1) motion with directions to reinstate his appeal. The district court had jurisdiction to address Crabtree's timely filed Crim. P. 35(c)(1) motion, and the court of appeals therefore erred in dismissing Crabtree's appeal.