

Court of Appeals of the State of Georgia

ATLANTA, June 19, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0312. BOYD v. JOHNSON.

On May 13, 1996, the state court granted plaintiff Carl Boyd's request to issue a certificate of immediate review of a certain interlocutory order entered on April 26, 1996. However, since the certificate was not issued within ten days of the entry of the order to which it refers, this court is without jurisdiction to consider Boyd's petition for interlocutory appeal. OCGA § 5-6-34 (b); Turner v. Harper, 231 Ga. 175 (200 SE2d 748) (1973). Accordingly, Boyd's application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 19 1996

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

 Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 31, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0318. LARRY DALTON MANNING v. DOROTHY NANETTE MANNING.

Applicant Larry Dalton Manning filed this application seeking the Court's review of the trial court's order granting respondent Dorothy Nanette Manning's motion to transfer venue of the parties' pending divorce action. Although Manning filed his application pursuant to OCGA § 5-6-35, the discretionary appeals statute, the clerk of this Court docketed it as an application for interlocutory appeal because the case has been transferred and remains pending below. Additionally, the application did contain the trial court's order certifying its transfer order for immediate review. This Court, however, does not have jurisdiction to review the application.

Since the order complained of arises in the context of a pending divorce action, jurisdiction to consider the merits of the application lies with the Georgia Supreme Court. Ga. Const. Art. VI, Sec. VI, Para. III (6). Accordingly, the application is hereby transferred to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 31 1996

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William R. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 19, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0320. TROY ANTHONY JOWERS V. THE STATE.

Applicant Troy Anthony Jowers seeks interlocutory review of a decision of the trial court which denied his motion for a plea in bar based upon a claim of double jeopardy. However, a denial of a motion for a plea in bar on such basis is directly appealable. Miller v. The State, 204 Ga. App. 562, 563 (420 SE2d 12) (1992). Because the interlocutory appeal provisions have no application in cases subject to direct appeal, this petition for interlocutory review must be dismissed for lack of jurisdiction. Artis v. Gaither, 199 Ga. App. 114 (404 SE2d 322) (1991).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 19 1996

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William L. Martin Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 19, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

APPLICATION NO. A96I0322
SCAPA, INC. V. LOUISE M. THOMAS

Upon consideration of the Application for an Interlocutory Appeal, it is ordered that it be hereby DENIED.

97036

93V271

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

JUN 19 1996

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William R. Martine Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JULY 01, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A96I0322

SCAPA, INC. V. LOUISE M. THOMAS

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 1 1996

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Witness my signature and the seal of said court hereto affixed the day and year last above written.

William R. Martin

Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 19 , 1996

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

APPLICATION NO. A96I0323

JACOB TODD LANGE LESLIE V. STATE OF GEORGIA

Upon consideration of the Application for an Interlocutory Appeal, it is ordered that it be hereby DISMISSED.

98036

95D51033

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 19 1996

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William L. Martini Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, JUNE 18 , 1996

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

APPLICATION NO. A96I0324
KEITH MORRISON V. STATE OF GEORGIA

Upon consideration of the Application for an Interlocutory Appeal, it is ordered that it be hereby DENIED.

90036

96RCCR95

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 18 1996

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William E. Martin Clerk.

Untimely

MOTION FOR RECONSIDERATION

Case No. *A9610324*

Term _____ Code *90-036*

Judgment Date *7/9/96*

Date of Motion *7/24/96*

By: *MA*
Pope, D. Andrews & Smith
of counsel

Order

GRANT	DENY	DISMISS
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MA
MP
MA

DISPOSITIONAL INSTRUCTIONS TO CLERK:

Court of Appeals of the State of Georgia

ATLANTA, July 9, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0324. MORRISON v. THE STATE.

On June 18, 1996, this Court denied the application for interlocutory appeal filed in this case. The appellant filed a motion for reconsideration of that denial on July 1, 1996. However, under Rule 37 of the Rules of the Court of Appeals, a motion for reconsideration must be filed within 10 days of this Court's judgment. Accordingly, this motion for reconsideration is hereby dismissed as untimely.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL -9 1996

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William R. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 9, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0324. MORRISON v. THE STATE.

On June 18, 1996, this Court denied the application for interlocutory appeal filed in this case. The appellant filed a motion for reconsideration of that denial on July 1, 1996, which this Court dismissed as untimely on July 9, 1996. On July 24, 1996, the appellant filed another motion for reconsideration, without first obtaining permission to do so as required by Rule 37 (d) of the Rules of the Court of Appeals. Further, this second motion for reconsideration itself is untimely. Accordingly, the second motion for reconsideration is dismissed because it was filed without permission and was untimely in any event.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG -9 1996

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William R. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 1, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0332. Uniroyal, Inc. et al v. Lavada Rouse Sears.

On June 7, 1996, Uniroyal, Inc., filed this application for an interlocutory appeal of the trial court's May 20, 1996, order denying Uniroyal's motion for summary judgment. Uniroyal obtained a certificate of immediate review from the trial court on May 28, 1996; however, Uniroyal did not file the certificate with the clerk of court until June 3, 1996 -- fourteen days after the entry of the order denying summary judgment.

To have any efficacy, a certificate of immediate review must be obtained and filed within ten days of the order appealed. OCGA § 5-6-34 (b); *Turner v. Harper*, 231 Ga. 175 (200 SE2d 748) (1973); *G.M.J. v. State of Georgia*, 130 Ga. App. 420 (203 SE2d 608) (1973). The proper and timely filing of a certificate of immediate review is an absolute requirement to confer jurisdiction upon this Court to entertain an interlocutory appeal. *Wood v. State*, 199 Ga. App. 252 (404 SE2d 589) (1991). Because Uniroyal did not file its certificate of immediate review within ten days of the order appealed, this Court lacks jurisdiction. Therefore, this application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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William E. Martin

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 1, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0357. BUTLER FORD-MERCURY, INC. v. BILLY JUSTICE.

Butler Ford-Mercury, Inc. filed an application for interlocutory review of the trial court's order denying its motion for summary judgment. The judge signed the order on June 14, 1996 and it was filed by the clerk of court on the same day. The judge also signed the certificate of immediate review on June 14, 1996 but the certificate was not filed with the clerk until June 25, 1996.

"[A] certificate of immediate review of a nonfinal or interlocutory judgment is ineffective unless entered, i.e., filed with the clerk, within ten days after entry of the judgment appealed from." Van Schallern v. Stanco, 130 Ga. App. 687 (204 SE2d 317) (1974). If the certificate of immediate review is not entered during the ten-day period, it is untimely and the party must wait until a final judgment is entered before appealing an interlocutory judgment rendered in the case. Turner v. Harper, 231 Ga. 175, 176 (200 SE2d 748) (1973). Therefore, the certificate of immediate review filed 11 days after entry of the order denying summary judgment in the instant case is untimely and the application is hereby DISMISSED. Whitlock v. State, 124 Ga. App. 599, 601 (1) (185 SE2d 90) (1971).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 1 1996

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William R. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 11, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0362. F. W. WOOLWORTH CO. et al. v. JANKOWSKI.

This application for interlocutory appeal is from the trial court's denial of F. W. Woolworth Company's motion for summary judgment in an action for false arrest. Although the trial court verbally denied the motion for summary judgment, no written order denying the motion was entered. Where the judgment has not been entered, an appeal is premature and must be dismissed. Bowers v. Price, 168 Ga. App. 125 (308 SE2d 420) (1983). Accordingly, this premature application is hereby dismissed.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 11 1996

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Clerk.



Court of Appeals of the State of Georgia

ATLANTA, July 16, 1996

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A96I0365. NATIONSBANK, N.A. (SOUTH) v. BOOTH et al.

Applicant Nationsbank, N.A. (SOUTH) has filed this application for interlocutory appeal out of an abundance of caution in order to secure review of certain rulings of the trial court that are not otherwise subject to direct appeal. However, we agree with respondent that the notice of appeal filed by petitioner on July 1, 1996, is adequate to secure a review of the issues presented in this application. See generally Southeast Ceramics v. Klem, 246 Ga. 294, 295 (1) (271 SE2d 199) (1980). Accordingly, this application is hereby dismissed as moot.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 16 1996

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Clerk.

