

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

ATLANTA, SEPTEMBER 08, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0001

GEORGIA DEPARTMENT OF CORRECTIONS V. THOMAS F. BAILEY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92001

95CV32032

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP -8 1998

*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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, SEP 10 1996

The Court of Appeals hereby passes the following order:

A99D0002. POLSEAN v. CHEEVER.

Richard Polsean seeks an appeal from the denial the parties' contempt and counter-contempt petitions based on a property settlement incorporated into a final divorce decree. The court below also purported to reform the settlement agreement as it relates to the sale of the marital home to reflect the original intent of the parties. An order denying cross-petitions for contempt and otherwise reforming or modifying a final divorce decree falls within the divorce and alimony jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979); see also Brown v. King, 266 Ga. 890 (472 SE2d 65) (1996); Smith v. Smith, 254 Ga. 450, 452 (330 SE2d 706) (1985); compare Eickhoff v. Eickhoff, 263 Ga. 498, 499 (1) (435 SE2d 914) (1993) (petition seeking to enforce an unincorporated settlement agreement does not raise a domestic relations issue); Ashburn v. Baker, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction over appeal of contempt action involving child custody issues, but not issues relating to divorce and alimony, is within the Court of Appeals, even though such

action involves an action for contempt for violation of a divorce decree). For the foregoing reasons, Polsean's application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Mason, Jr.

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

ATLANTA, AUGUST 27, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0003

ARMANDO V. DIAZ V. DITTLER BROTHERS, INC. ET AL

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

93001

98CV970A 260-83-5959

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 27 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 14, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0004

ALAN LEE HULBERT V. DOMINO'S PIZZA, INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91001

98V822

253-27-6916

To: 93

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 14 1998

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0005
PEACHTREE PLASTICS, INC. V. LESTER VERHINE d/b/a PLASTIC GRINDERS OF
GEORGIA, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95001

97A373541

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA,

SEPTEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0006

KISHA BOYD SMART V. TOMMY L. BOYD

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

90001

98V0440

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 08, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0007
JOHN BYRON BISHOP V. THE STATE

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

97001

98CR18586

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP - 8 1998

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 14, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0008
EDDIE DIXON V. EMANUEL COUNTY BOARD OF EDUCATION

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

99001

98CV107

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 14 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 01, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0009
EDDIE L. WILCHER V. WACO SUPPLY CO., ET AL

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

96001

98CV225 257-39-2257

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP - 1 1998*

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Will. L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 03, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0010

IVEY GRANT, JR. V. GEORGIA DEPARTMENT OF HUMAN RESOURCES,
ex, rel. SHANIA DANAE SIMMONS

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

92-002
9775884

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC -3 1998*

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Clerk.

Will L. Martin, III

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

ATLANTA, SEP 16 1998

The Court of Appeals hereby passes the following order:

A99D0011. ANDERSON v. SOUTHER

On August 21, 1998, Albert Anderson filed this application seeking discretionary review of the trial court's July 15, 1998 order denying his motion for judgment notwithstanding the verdict. An application for discretionary review must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Because Anderson's application was filed 37 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0012

HOWARD OSOFSKY V. BOARD OF MAYOR AND COMMISSIONERS, CITY OF AVONDALE
ESTATES, GEORGIA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91002

9813359

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 16 1998

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hereto affixed the day and year last above written.*

Jill L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0013
LIVIANA E. SIRMANS, ET AL V. V. HYON SUK MERRY

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

95002

96CV1517

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 17 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0014

CATHERINE FORTSON-PRINTUP V. GRADY MEMORIAL HOSPITAL/ GRADY HEALTH
SYSTEM

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

90002

E70925 252-90-7146

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 1998

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Clerk.

Jill L. Mat...

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

ATLANTA, SEPTEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0015
FREDERICA ACADEMY, ET AL V. JOANN S. MILLER

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

97002

9800844 259-72-1710

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 10 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0016
JENNIFER RUTH WYLIE V. ROBERT PAUL BLATCHLEY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98001
1E97DR122T

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

SEP 16 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 11, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0017

GRACE SHEET METAL COMPANY, ET AL V. JAMES ALAN ROACH

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

98002

98RCCV504 257-94-9982

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

SEP 11 1998

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Will L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 24, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0017

GRACE SHEET METAL COMPANY, ET AL V. JAMES ALAN ROACH

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

98-002
98RCCV504 257-94-9982

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 24 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0018

FRANK REEVES, ET AL V. MR. JULIAN D. EDGE, ET AL

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

99002

SU93CV4689

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 16 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0019
MANASH DESAVIEU V. THE STATE

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

93002

SU98CR0631J

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

SEP 16 1998

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Will. L. Mart, III

Clerk.

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

ATLANTA, SEPTEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0020

PAMELA J. SNOW V. DENNIS C. SNOW

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

96002

97CV2288N

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 16 1998
SEP 16 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0021

GEORGIA DEPARTMENT OF HUMAN RESOURCES, ex rel, WILLIAM C. SMITH V.
STEVEN CECIL SMITH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92003

98CS353

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 24, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0022

DONALD A. JACKSON, ET AL V. LAURANCE T. NEUSTADT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94003

97121495

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 24 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, SEPTEMBER 04, 1998

The Court of Appeals hereby passes the following order:

Case No. A99D0023

DENNIS HOOPER V. TINA STRINGFELLOW

The discretionary application received in the above docketed matter does not contain a stamped "filed" copy of the order which is being appealed as required by Rule 32 (b) of the Court of Appeals.

Applicant is hereby ordered to supplement the application with a stamped "filed" copy of the order instanter. If applicant does not cause a copy of said order to be physically filed with the Court within 10 days of the date of this order, the application will be dismissed. Applicant's submission in response to this order will be deemed filed only on the date it is physically received in the Clerk's office.

The Court is required to issue an order granting or denying the application within 30 days of the filing of the application. See OCGA 5-6-35 (f).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP - 4 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 01, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0023

DENNIS HOOPER V. TINA STRINGFELLOW

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

91-003
98CV1137

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

OCT - 1 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, SEPTEMBER 18, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0024

GEORGE W. MARTIN, ET AL V. CLAUDELL MARTIN

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

95003

65839J

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 18 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 28, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0025
GREG FISHER, LTD., ET AL V. BILLY SAMPLES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90003

98CV267W 257-35-2829-

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 01, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0026

SATILLA REGIONAL MEDICAL CENTER V. PEGGY LEE DIXON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98003

98V05474 267-52-8249

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 1 1998

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Will L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0027

HARRY D. MCCOY V. THE TRAVELER'S INSURANCE COMPANY, ET AL

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

97003

98CV025484 415-84-3142

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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

Clerk.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, SEP 23 1998

The Court of Appeals hereby passes the following order:

A99D0028. HURT v. NORWEST MORTGAGE, INC.

Judith F. Hurt appealed an unspecified magistrate court action against Norwest Mortgage, Inc., to superior court. The superior court granted summary judgment to Norwest on June 24, 1997. On September 19, 1997, Hurt filed a motion to set aside and a separate motion for certain equitable relief. The motions were denied by order entered October 29, 1997. Hurt apparently did not seek to appeal that order, but instead filed a motion for reconsideration, which was denied on August 4, 1998. Hurt now seeks an appeal to this court. However, the denial of a motion for reconsideration is not appealable in its own right, nor is it a motion that serves to extend the time allowed under OCGA § 5-6-35 (d) to petition for a discretionary appeal. Since Hurt's application is not timely filed from an appealable judgment, it is hereby DISMISSED for lack of jurisdiction. Accord Savage v. Newsome, 173 Ga. App. 271 (326 SE2d 5) (1985).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 23 1998

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Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, SEP 30 1998

The Court of Appeals hereby passes the following order:

A99D0029. McCulley v. McCulley

Shirley Ann McCulley filed this discretionary appeal of the trial court's denial of her motion for new trial following a judgment by the trial court awarding permanent custody of her two children to the children's father, Colin R. McCulley. Ms. McCulley alleges twelve enumerations of error in her application; however, there is evidence in the record to support the trial court's order. Ms. McCulley's conviction of the offenses of murder, assault, and possession of a firearm would constitute a material change in circumstances affecting the welfare of the children justifying the change in custody. Further, any complaints concerning visitation must be addressed to the trial court as the ruling of the trial court stated that reasonable visitation would be as agreed between the parties. To the extent Ms. McCulley claims visitation is insufficient, that claim must first be brought to the trial court before an appeal to this Court can be made. With regard to Ms. McCulley's claim concerning visitation with the children's maternal grandparents, that claim must also be ruled upon by the trial court prior to any appeal to this Court.

Accordingly, this application for discretionary appeal is ordered denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 30 1998

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

Will. L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 07, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0030

WILLIAM F. KELLEY, ET AL V. FRIGIDAIRE COMPANY, ET AL

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

96003

E55232

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 7 1998

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
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William F. Kelley, III

Clerk.

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0031
JOHN STEVEN COLVERT V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92004

96M0268

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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William L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 07, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0032

YOLANDA B. MEZQUITA V. JOSEPH D. CAMPBELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94004

98V0018

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT -7 1998

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Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, OCT 14 1998

The Court of Appeals hereby passes the following order:

A99D0033. EXCEPTIONAL ADULT DAY CARE, INC. v. DARLENE STOKES

Exceptional Adult Day Care, Inc. filed a discretionary application seeking an appeal from an award of the Administrative Law Judge in favor of Darlene Stokes, which was affirmed by the State Board of Workers' Compensation Appellate Division. That award was affirmed by operation of law in the superior court. OCGA § 34-9-105 (b). This Court is required to review workers' compensation awards under the "any evidence" rule, and if the ALJ and the Board accept the testimony of the claimant, we must affirm. Metro Interiors, Inc. v. Cox, 218 Ga. App. 396 (461 SE2d 570) (1995). Determinations of credibility and weight of testimony are for the ALJ and the Board, not for reviewing courts. Id.

Accordingly, this Court is bound to accept the Board's findings of fact because they are supported by some evidence. The ALJ and the Board were not compelled by the evidence to accept the employer's theory that the employee's injuries, if any, were caused by her running into a door and continuous lifting of a bag; the Board was authorized instead to find that the injuries for which benefits were awarded occurred during the course of, and arose out of, the employment. The application is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 14 1998

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, September 15, 1998

The Honorable Court of Appeals hereby passes the following order:

A99D0034 FORSYTH COUNTY, GEORGIA, ET AL V. MARIE CHILDERS

It appearing the INTERLOCUTORY application case, #A99I0021, was incorrectly filed, it is hereby ordered that said case is hereby changed to a DISCRETIONARY application with the case number A99D0034 as stated above.

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

*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.*

SEP 15 1998

Clerk.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0034
FORSYTH COUNTY, GEORGIA, ET AL V. MARIE CHILDERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95004

9525485 E37541

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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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.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0035
CLYDE J. GOBER V. MARIE CHILDERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95005

9525485 E37541

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 07, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0036

COLUMBUS FIRE DEPARTMENT, ET AL V. WALDER L. LEDFORD, JR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90004

SU98CV1571

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT -7 1998

*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.*

Will L. Martin, III

Clerk.

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

ATLANTA, SEPTEMBER 24, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0037
JAMES WILLIAM WEISS V. THE STATE

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

98004

970005

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 24 1998*

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, OCT 15 1998

The Court of Appeals hereby passes the following order:

A99D037. JAMES WILLIAM WEISS v. THE STATE.

On September 24, 1998, this court denied the application for discretionary appeal filed in this probation revocation case. A transcript of the revocation hearing was not available during the time period in which disposition of the application was required under OCGA § 5-6-35 (f).

Weiss filed a motion for reconsideration, for stay, and for leave to supplement record. Weiss indicates that a transcript should be available for submission by October 30, 1998, and this Court should stay any decision on the motion for reconsideration until a transcript is filed. Weiss provides no reason, however, why the transcript, or a satisfactory substitute therefore, was not timely filed initially. Absent such reason, there is no basis for this Court to reconsider its original order or to stay our decision on motion for reconsideration or to grant permission to supplement the record. Therefore, it is ordered that Weiss' motions are hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 15 1998

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the minutes of the Court of Appeals of Georgia.*

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William L. Martin, III Clerk.

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0038

VAUGHN COMMUNICATIONS, INC. V. CHRISTIE BOWMAN

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

97004

97A76362

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 14, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0039

SHELLY BETH CHRISTENSEN V. WILLIAM MICHAEL MANUSZAK, JR.

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

99004

9627801

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 14 1998

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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, OCTOBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0040

JODETTE SLAYTON DAVIDSON V. ROBERT MCCURDY DAVIDSON

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

93004

E38936

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 2 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 05, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0041

GEORGIA MOUNTAINS COMMUNITY SERVICE BOARD V. VIRGINIA CARTER, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

96004

97CV756W

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT -5 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, October 16, 1998

The Court of Appeals hereby passes the following order:

A99D0042. DISASTER SERVICES, INC., v. ERC PARTNERSHIP, DONALD D. HAMMETT, GEORGE H. JOHNSON, and CHARLES C. BARTON.

Plaintiff-applicant Disaster Services, Inc. ("DSI") seeks to appeal from an order granting defendant-respondents' request for attorney fees, entered on August 13, 1998. The last sentence of that order states that "[p]ursuant to OCGA § 9-15-14 (b), the Court awards attorneys' fees in the amount of \$69,380.79 and costs in the amount of \$8,427.63." On August 19, 1998, the Court entered an "ORDER OF CLARIFICATION NUNC PRO TUNC," which amended the last sentence of the August 13th order to read as follows: "Pursuant to OCGA § 9-15-14 (b), the Court awards attorneys fees in the amount of Sixty-Nine Thousand Three Hundred Eighty and 79/100 Dollars (\$69,380.79) and costs in the amount of Eight Thousand Four Hundred Twenty-Seven and 63/100 Dollars (\$8,427.63) against the Plaintiff Disaster Services, Inc." Further language making applicant DSI's counsel jointly responsible for satisfying the award was crossed out by the trial court. It thus appears that the only effect of the latter order is to clarify that plaintiff DSI alone is responsible for the payment of the original amounts awarded as OCGA § 9-15-14 (b) attorney fees.

Applicant filed its petition for appeal with this court on September 18, 1998, which was within 30 days of the order of

clarification, but not within 30 days of the original order entered August 13, 1998. Respondents filed a motion to dismiss the application on the ground that it is untimely, relying on Bowen v. Clayton County Hospital Authority, 160 Ga. App. 809 (288 SE2d 232). Bowen holds that "[a] nunc pro tunc entry does not extend the statutory period for filing a notice of appeal. [Cit.]" Id. at 810. We agree with respondents that the reasoning in Bowen applies in the present context of an application for discretionary appeal. Moreover, while an order amending an otherwise final order may be appealed in its own right, this is true only to the extent that it effects a change in the result reached or otherwise addresses new subject matter. See generally Nodvin v. West, 197 Ga. App. 92, 93 (1) (397 SE2d 581) (1990).

In the case sub judice, DSI takes no specific exception to the clarification made in the order entered August 19, 1998. While DSI does reference the August 19, 1998 order, the only order actually complained of in the application is the award of attorney fees entered August 13, 1998. Since the above-styled application was filed more than 30 days after the entry of the substantive order complained of, respondents' motion to dismiss is GRANTED and the application is hereby DISMISSED for lack of jurisdiction. Bowen v. Clayton County Hospital Authority, 160 Ga. App. 809, 810, supra.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 16 1998

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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.*

Will. L. Martin, III Clerk.

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

ATLANTA, SEPTEMBER 30, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0043
NICHELLE JACKSON V. SIMONE DEERING

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

94005

96A57284

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP 30 1998

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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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, OCT - 1 1998

The Court of Appeals hereby passes the following order:

A99D0044. Acosta v. The State

Maricel S. Acosta seeks discretionary review of the trial court's denial of her motion for reconsideration. On or about March 30, 1998, Acosta pled guilty to three counts of burglary and was sentenced to serve ten years on each count to run concurrently. On April 16, 1998, Acosta filed a motion for reconsideration of her sentence which was denied by order dated August 18, 1998.

Acosta filed this discretionary application on September 17, 1998. However, OCGA § 5-6-38 requires that a notice of appeal be filed within 30 days of an appealable order or judgment. A motion to reconsider does not extend the time for filing a notice of appeal. Telephone Advertising corp. v. Aaron Rents, 206 Ga. App. 493 (426 SE2d 54) (1992). In this case, the time for filing an appeal commenced upon Acosta's sentencing, and therefore, Acosta's notice of appeal, which was filed more than 30 days after her sentencing, was untimely.

Acosta's sole avenue for seeking a review of her sentencing at this time is to seek an out-of-time appeal from the trial court. Any subsequent grant or denial of her motion for an out-of-time

appeal would be directly appealable to this court if sought within 30 days of the entry of the order by the trial court.

Acosta's failure to timely appeal to this Court deprives this Court of jurisdiction. Accordingly, this discretionary application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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.

Will. L. Martin

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

ATLANTA, OCTOBER 08, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0045

DONALD LEE., SMITH V. GEORGIA DEPARTMENT OF HUMAN RESOURCES, ET AL

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

90005

93CV1133

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT - 8 1998

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 15, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0046
SHAFFER TRUCKING, INC., ET AL V. ROBERT KLINGER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98005

98CV1918 482-38-7297

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 15 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 01, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0048

ANGELA RAINES V. UPSON COUNTY BOARD OF COMMISSIONERS, ET AL

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

99005

97V840

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 1 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 14, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0048

ANGELA RAINES V. UPSON COUNTY BOARD OF COMMISSIONERS, ET AL

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

99-005
97V840

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

OCT 14 1998

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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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 13, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0049
RANDALL LEONARD V. THE STATE

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

93005

SU98CV0863

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 13 1998

*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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 22, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0050
HAROLD F. REHEIS, DIRECTOR, ENVIRONMENTAL PROTECTION DIVISION,
GEORGIA DEPARTMENT OF NATURAL RESOURCES V. DREXEL CHEMICAL COMPANY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

96005
98V170

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 22 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will L. Martin, III

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

ATLANTA, OCTOBER 08, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0051
MARJORIE WARD V. ROBERT E. PRESTON

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

92006

981140818

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 8 1998

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

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0052
RODNEY ADRIAN HENRY V. THE STATE

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

94006

96CR617X 98CR461X

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT - 9 1998*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 08, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0053

GEORGIA DEPARTMENT OF REVENUE, ET AL V. WILLIAM R. SLEDGE, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91006

E64845

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT - 8 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 21, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0054
VALERIE L. RICHARDS V. INGERSOLL-RAND CO., ET AL

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

95006

34496 253-35-9356

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

OCT 21 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 29, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0055
RAYMOND SUTTON V. GEORGIA BOARD OF REVIEW

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

90006

98A030341

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 29 1998*

*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.

William L. Mant, III

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

ATLANTA, DECEMBER 17, 1998

The Honorable Court of Appeals hereby passes the following order:

A99D0055 RAYMOND SUTTON V. GEORGIA BOARD OF REVIEW

Upon consideration of the second motion for reconsideration in the above styled case, said motion is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 17 1998

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

Will. L. Martin, III

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

ATLANTA, OCTOBER 30, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0056

FRANCIS G. LAGUAITE V. GEORGIA DEPARTMENT OF REVENUE

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

98-006
98A013011

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 30 1998

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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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 15, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0056

FRANCIS G. LAGUAITE V. GEORGIA DEPARTMENT OF REVENUE

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

98006

98A013011

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 15 1998

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*Witness my signature and the seal of said court
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William L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 03, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0057

JWI/ATLANTA WIRE WORKS, ET AL V. COPELAND COMPANY, ET AL

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

97006

249-68-9808 98V1146

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV -3 1998

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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.

Will. L. Martin, III

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

ATLANTA, OCT 27 1998

The Court of Appeals hereby passes the following order:

A99D0058. Johnny E. Oglesby, Sr. v. Susan A. Oglesby

On June 17, 1998, the trial court entered a Final Judgment and Decree in this divorce action between the parties. Shortly thereafter, on June 23, 1998, Susan A. Oglesby moved for an award of attorney fees pursuant to OCGA § 19-6-2. On September 4, 1998, the trial court granted Susan Oglesby's motion for attorney fees and denied applicant Johnny E. Oglesby, Sr.'s motion for attorney fees. Applicant seeks discretionary review of the trial court's order granting his ex-wife's motion for attorney fees.

The Supreme Court has exclusive jurisdiction over appeals in divorce cases. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Because the order sought to be appealed is an order in a divorce case, this appeal is hereby TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 27 1998

*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
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Will. L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 29, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0059
GEORGIA-PACIFIC CORPORATION V. ROSETTA WILSON

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

93006

9801255 259-86-7941

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

OCT 29 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Martin, III

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

ATLANTA, DEC 23 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0059

GEORGIA-PACIFIC CORPORATION v. ROSETTA WILSON.

Upon consideration of Appellant's Motion for Reconsideration filed November 6, 1998, it is ordered that it be hereby GRANTED.

The Court's order of October 29, 1998 denying the application is hereby vacated, and the application is hereby granted. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 23 1998

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

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hereto affixed the day and year last above written.*

William L. Martin, III

Clerk.

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

ATLANTA, OCTOBER 21, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0060
MARY CYNTHIA BOATRIGHT V. GREGORY WAYNE BRYANT

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

96006

98A00277

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 21 1998

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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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 19, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0061

JAMES TERRY V. THE STATE

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

92007

071648584

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 09, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0061

JAMES TERRY V. THE STATE

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

92-007
071648584

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 9 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, OCTOBER 21, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0062

BRYSON DEVELOPMENT COMPANY V. INTHASONE KEOVONGSA

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

94007

95A138424

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 1998

*I certify that the above is a true extract from
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Clerk.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, OCT 30 1998

The Court of Appeals hereby passes the following order:

**A99D0063. BOOMERSHINE PONTIAC-GMC TRUCK, INC. v. CLYDE K. SNAPP,
ET AL.**

This is the second application of Boomershine Pontiac-GMC Truck, Inc. ("Boomershine") for review of an award of attorney fees in a dispute over the title to a vehicle Clyde Snapp traded in when purchasing a new vehicle from Boomershine. This court granted Boomershine's first application (A98D0056) and vacated the trial court's September 15, 1997 award of attorney fees in favor of Snapp because the order failed to state whether the award was made under OCGA § 9-15-14 (a) or (b) and failed to set forth the findings necessary to support such an award. Boomershine Pontiac-GMC Truck, Inc. v. Snapp, 232 Ga. App. 850 (A98A0770, June 12, 1998).

On remand, the trial court complied with this court's direction and conducted an evidentiary hearing on the two issues of "whether" attorney fees were warranted and, if so, "how much." On September 9, 1998, the trial court entered an order awarding Snapp attorney fees under both OCGA § 9-15-14 (a) and (b) in the amount of \$12,550.55. This application followed.

When reviewing a trial court's decision awarding sanctions under both OCGA § 9-15-14 (a) and (b), two standards of review are

involved: A decision under subparagraph (a) must be sustained if any evidence supports the trial court's decision; a decision under subparagraph (b) must be sustained unless the trial court has abused its discretion. Haggard v. Board of Regents, 257 Ga. 524 (360 SE2d 566) (1987); Gibson v. Southern General Ins. Co., 199 Ga. App. 776 (406 SE2D 121) (1991). An order awarding fees must include findings of conduct that authorize an award under OCGA § 9-15-14. Porter v. Felker, 261 Ga. 421, 422 (3) (405 SE2d 31) (1991). See MacDougald v. Phillips, 213 Ga. App. 575, 576 (1) (445 SE2d 357) (1994) (order which failed to mention the criteria of OCGA § 9-15-14 and failed to relate the standards of the section to the actions of the party to be sanctioned was insufficient).

The trial court's September 9, 1998 order set out the criteria for an award under § 9-15-14 (a), concluded that Boomershine's evidence at trial failed to establish a justiciable issue of law or fact that could reasonably be believed by a court and discussed specific findings supporting that conclusion.¹ The trial court also set out the criteria for an award under § 9-15-14 (b) and concluded that Boomershine expanded the proceedings unnecessarily and discussed specific findings supporting that conclusion.²

¹The court found that "the evidence concerning the disputed title of the trade-in vehicle clearly revealed that [Boomershine] knew that [Snapp] could not clear up the odometer discrepancy on the title. By claiming a breach of contract on the part of [Snapp] for failure to produce a 'clear' title, [Boomershine] filed a substantially frivolous lawsuit." Application Exhibit 1, p. 1.

²The court found that Boomershine "dismissed an original party to the lawsuit without leave of court. [Boomershine] attempted to revive its case against the party (Buckhead Pipeline) by filing a renewal action, which was subsequently dismissed. These actions constituted expanding the proceedings unnecessarily." Application Exhibit 1, pp. 1-2.

Although Boomershine argued that the trial court's order did not contain the required findings of fact and conclusions of law, it appears that Boomershine merely disagrees with the trial court's findings. After a careful review of the materials in the application, this court finds that Boomershine has not shown that the trial court's award under OCGA § 9-15-14 (a) was unsupported by the evidence. We are limited in our assessment as to subsection (b) because, if the party seeking appeal has not provided a copy of the transcript from the hearing, as Boomershine has not, "this court in reviewing an appeal from the exercise of a discretionary power by a trial court will assume the trial court properly exercised its discretion." Torok v. Mize, 164 Ga. App. 357, 358 (1) (296 SE2d 738) (1982). No abuse of discretion is revealed.

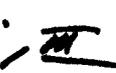
For these reasons, Boomershine has not demonstrated that there is a possibility of reversible error, and the application is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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hereto affixed the day and year last above written.*

Will. L. Mart, 

Clerk.

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

ATLANTA, NOVEMBER 06, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0064
MICHAEL D. PAULEY V. JC PENNY, ET AL

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

95007

401-76-0302 988378

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV -6 1998*

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Martin, III

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

ATLANTA, OCTOBER 21, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0066
LORAIR, LTD. V. CR ACQUISITION CO., ET AL

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

98007

97VS134662H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta OCT 21 1998

*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, NOVEMBER 03, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0065
BOBBY SHANE ADAMS V. THE STATE

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

90007

94CR135

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV -3 1998*

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0067
HENRY L. GRIFFIN V. WOOD SPECIALTY CO., ET AL

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

97007

98CV17597 257-92-8286

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV - 9 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0068
LOUISIANA-PACIFIC CORP. V. LESLIE D. KENNEDY

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

99007

X98CV0700 264-90-0665

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV - 9 1998*

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Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 05, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0069

KENNETH B. JOHNSON, ET AL V. NATIONSBANC MORTGAGE CORPORATION

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

93007

9713458

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

NOV - 5 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, OCTOBER 29, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0070
ANDREW E. HOOKS V. PEGGY KENNEDY BRANTON

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

96007

96CI0188F

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

OCT 29 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will L. Martin, III

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

ATLANTA, NOVEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0071

MICHAEL RIVERS V. GEORGIA DEPARTMENT OF CORRECTIONS, ET AL

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

92008

97V4543 253-49-0172

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 10 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 16, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0072

JANE NEWMAN MCRAE MAHAN V. WILLIAM FRANKLIN MCRAE, JR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94008

98CV0805

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 16 1998

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Clerk.

William L. Martin, III

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

ATLANTA, NOVEMBER 05, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0073
DALY'S DRIVING SCHOOL, INC. V. CARL SHELTON SCOTT

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91008

98C32113

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 5 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

William L. Martin, III

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

ATLANTA, NOVEMBER 12, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0074
RONILE OF GEORGIA, ET AL V. BETTY RYALS

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

95008

412-94-0739 52546

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 12 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, NOV - 4 1998

The Court of Appeals hereby passes the following order:

A99D0075. DAVY TODD v. CAROL WEBB

Davy Todd seeks a discretionary appeal from the trial court's order denying his motion for a new trial. Todd failed to include in his application a stamped "filed" copy of the order from which the appeal is sought as required by Rule 31 (c) of the Court of Appeals. The copy of the appealed order in Todd's application does not even show the signature of the trial judge. On October 19, 1998, this court issued an order to Todd directing him to supplement the application within ten days with a stamped "filed" copy of the order appealed from and stressed that the application would be dismissed if the document was not timely filed with this court. Todd had until October 29, 1998 to file the "filed" copy of the order with this court but failed to do so. Because Todd has failed to comply with the clear mandate of Rule 31 (c), his application is fatally deficient and is hereby DISMISSED. See Court of Appeals Rule 7.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 4 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III

Clerk.

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

ATLANTA, NOV 12 1998

The Court of Appeals hereby passes the following order:

A99D0076. NORMAN v. COREY MEDIA, INC.

Rena Norman seeks a discretionary appeal from an order entered September 16, 1998. Norman was required to file her application with this court by Friday, October 16. Although Norman mailed her application on that date, the application was not received in this court until Monday, October 19, 33 days after the order complained of was entered in the court below. Since Norman did not mail her application by certified mail as provided for in this court's Rule 4, her application must be deemed filed when physically received by this court on October 19. Accordingly, because Norman failed to file her application within 30 days as required under OCGA § 5-6-35 (d), it is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 12 1998

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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.*

Will. L. Mat...

Clerk.

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

ATLANTA, DECEMBER 07, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0076

RENA NORMAN d/b/a NORMAN & ASSOCIATES INSURANCE V. COREY MEDIA, INC.

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

98-008
98SV1327

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC -7 1998

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*Witness my signature and the seal of said court
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Will L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, NOV - 2 1998

The Court of Appeals hereby passes the following order:

A99D0077. DISASTER SERVICES, INC. v. ERC PARTNERSHIP et al.

Disaster Services, Inc. (DSI) has filed an application for discretionary appeal of the trial court's order denying DSI's motion to vacate, set aside, or reconsider an earlier order granting attorney fees and costs to defendants, and to hold an evidentiary hearing on the issue. We previously dismissed as untimely DSI's earlier application for discretionary review of the trial court's initial order granting attorney fees and costs. The issues raised in the current application are substantially the same as those raised in the prior application. Nothing in OCGA § 5-6-35 authorizes a party to seek discretionary review of an order denying a motion to reconsider an earlier ruling, where the time for seeking review of the original ruling has expired. However, OCGA § 5-6-35 (a) (8) allows a party to apply for discretionary review of the denial of a motion to set aside a judgment under OCGA § 9-11-60 (d). In its motion below, DSI argued in part that the trial court's order should be set aside under OCGA § 9-11-60 (d) because no evidentiary hearing was held with respect to the amount and reasonableness of the attorney fees. However, the trial court

noted in its order denying the motion for reconsideration that DSI's counsel waived this issue by stating that he did not challenge the amount of attorney fees claimed. Although this fact was not included in the trial court's original order, it clearly does not constitute a non-amendable defect apparent on the face of the record. See, e.g., Powell v. State, 166 Ga. App. 780, 781 (1) (305 SE2d 646) (1983) (failure of order to contain findings of fact and conclusions of law not non-amendable defect). Moreover, the failure of the trial court to hold an evidentiary hearing on the attorney fees issue was a matter raised in DSI's prior application, which was dismissed by this Court as untimely.

It appears that this application is merely an attempt to raise issues unsuccessfully asserted in DSI's prior untimely application. Moreover, it does not appear that the trial court committed reversible error in denying the motion to set aside. Accordingly, this application is hereby denied. See Court of Appeals Rule 31 (a). Respondents' motion for frivolous appeal sanctions is hereby denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 2 1998

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martz, III

Clerk.

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

ATLANTA, NOVEMBER 06, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0078
ROGER THOMAS V. RAY ZOLLER, ET AL

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

99008

97CV2582B

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

NOV - 8 1998

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

William L. [Signature]

Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

OCT 29 1998

The Court of Appeals hereby passes the following order:

A99D0079. RONALD PHILPOT v. THE STATE

Ronald Philpot seeks an appeal from the order of the superior court entered August 26, 1998, revoking his probation. Philpot's application was sent by regular mail, as opposed to certified mail, and therefore the application was docketed on October 20, 1998, the date the application and applicable costs were physically received in the clerk's office. Rule 4 of the Rules of the Court of Appeals. Therefore, since Philpot failed to have his case filed in this court within 30 days of the revocation order, this court is without jurisdiction to consider his application. OCGA § 5-6-35 (d).

Moreover, we note that even if Philpot's application had been timely filed, the filing includes neither a recitation of the facts adduced at the revocation hearing nor a transcript of that hearing. Likewise, Philpot fails to explain the basis for his conclusion that the trial court failed to follow required procedures for the revocation of probation. When an application fails to include sufficient argument and supporting exhibits to demonstrate that reversible error has occurred, this court is afforded no basis to

consider granting an appeal. See Harper v. Harper, 259 Ga. 246 (378 SE2d 673) (1989).

For the foregoing reasons, Philpot's application is dismissed as untimely filed.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 29 1998

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

Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0080
ROBERT LEVINSON V. GLENDA B. ALLEN

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

96008

96CV100648

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV -2 1998*

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 03, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0081

JOHN R. HALEY V. DONALDSON, BELL & PICKETT, P.C.

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

92009

97V250

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV -3 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0082

ANNE K. FREEMAN, as Trustee of the MAZAL FORD TRUST V. PHILLIP D.
SHIPLEY

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

94009

97A14755

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 9 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0083
JOHN JOSEPH FAY V. CLARE S. AKERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91009
9525795

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 20 1998

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Will L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0084
JUVENTINO RAMIREZ V. ELBERTA CRATE & BOX CO.

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

95009

98V406 263-55-0143

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 20 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, NOVEMBER 04, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0085
JAMES ROBERT BATEMAN V. MELISSA MCLAIN FUTCH

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

90009

86V746

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV - 4 1998*

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*Witness my signature and the seal of said court
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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0086
VENCOR, INC. V. STATE HEALTH PLANNING AGENCY, ET AL

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

98009

E65210

E67300

E68058

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 20 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, NOVEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0087
STEPHEN L. STONE V. LOU ANNE STONE

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

97009

98A37606 98A30636 96A5636

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 10 1998

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

Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 25, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0088
BOBBY ALDRICH V. THE CITY OF LUMBER CITY, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99009

98CV230 259-90-8727

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 25 1998

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

Clerk.

Will L. Martin, III

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

ATLANTA, NOVEMBER 25, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0089

RICHARD H. RANCK V. THE WAGGONERS TRUCKING, ET AL

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

93009

9702040 368-44-9494

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 25 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEB - 3 1999

The Court of Appeals hereby passes the following order:

A99D0089. RICHARD H. RANCK v. THE WAGGONERS TRUCKING, et al

Richard H. Ranck filed a motion for reconsideration in this workers' compensation discretionary appeal. By order dated November 25, 1998, this Court denied Ranck's discretionary application. Ranck suffered a compensable injury in December 1996, and filed a claim for workers' compensation benefits in January 1997. The Administrative Law Judge (ALJ) awarded Ranck temporary total disability and medical benefits in June 1997. However, the ALJ denied Ranck's request for penalties and attorney fees, finding there was no evidence in the record that Waggoners Trucking, the employer/self-insurer, had violated OCGA § 34-9-221, which requires the employer to make timely payment of income benefits to the employee, unless the employer controverts the employees claim. Ranck appealed this portion of the award to the State Board of Workers' Compensation Appellate Division, which affirmed the ALJ's award. The superior court remanded for the record to be further developed on the issue of whether

Waggoners Trucking was subject to late payment penalties. Waggoners Trucking sought a discretionary appeal from this order, docketed as A98D0265, which this Court denied. The appellate division remanded to the ALJ to determine the evidentiary issue and further directed the ALJ to determine whether attorney fees and penalties should be assessed. The ALJ vacated certain earlier findings, entered new findings, and denied the employee's request for attorney fees and late penalties. The appellate division again affirmed the ALJ's award. The superior court reversed, finding that the record provided "proof the Employer violated the prompt payment provisions of the Act," and ordered the Board to assess a penalty against Waggoners Trucking pursuant to OCGA § 34-9-221 (e).

Waggoners Trucking did not appeal this decision. Ranck sought an appeal, however, on the basis that the superior court not only failed to order the Board to award him attorney fees pursuant to OCGA § 34-9-108 (b) (2), but failed to address the issue altogether when he had enumerated it as error. This Court denied the application, and Ranck seeks reconsideration of that denial.

In his motion for reconsideration, Ranck argues that once the superior court determined he was entitled to the OCGA § 34-9-221 (e) late penalty, he satisfied the predicate for an award of attorney fees under OCGA § 34-9-108 (b) (2), and the court's failure to address the issue was reversible error. In order to

award attorney fees for failure to comply with OCGA § 34-9-221, the Board must make a determination that the employer's noncompliance was "without reasonable grounds." Union Carbide Corp. v. Coffman, 158 Ga. App. 360 (280 SE2d 140) (1981). Ranck essentially argues that because the superior court made a determination that the employer violated OCGA § 34-9-221, he is absolutely entitled to a determination as to whether the employer's noncompliance was "without reasonable grounds." However, because the superior court did not rule on this issue, this Court has no jurisdiction to rule on it on appeal. See, e.g., Howard v. City of Columbus, 219 Ga. App. 569, 575 (4) (466 SE2d 51) (1995).

In any event, if the superior court had specifically ruled against Ranck on this issue, we would find no error. OCGA § 34-9-221 (e) provides that if the employer fails to pay income benefits when due, "there shall be added to the accrued income benefits" a 15 percent penalty. Accordingly, once the superior court found that the undisputed evidence showed the employer failed to pay income benefits when due in violation of OCGA § 34-9-221, subsection (e) mandated that the superior court compel the Board to assess a penalty against the employer. However, OCGA § 34-9-108 (b) (2) permits the Board to award attorney fees to the prevailing employee if the Board makes a factual determination that the employer has failed to comply with OCGA § 34-9-221 "without reasonable grounds." See Mt. Vernon Mills, Inc. v.

Gunn, 197 Ga. App. 109 (397 SE2d 603) (1990). Thus, even though it found the employer unequivocally violated OCGA § 34-9-221, the superior court could not compel the Board to award attorney fees. Accordingly, its failure to address the issue was not reversible error. We note that on remand, when the Board must assess the OCGA § 34-9-221 (e) penalty, it will not be foreclosed from considering the § 34-9-108 (b) (2) attorney fees issue at that time. For the foregoing reasons, the motion for reconsideration is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FER - 3 1000

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

Will [Signature]

Clerk.

Court of Appeals of the State of Georgia

NOV 18 1998

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0090. Johnny Moore v. The State

Johnny Moore seeks to appeal the trial court's order revoking his probation which order was entered on September 17, 1998. On October 14, 1998, Moore obtained a certificate of immediate review from the trial court's September 17 order. On October 26, 1998, Moore filed an application seeking appellate review of the trial court's order revoking his probation.

OCGA § 5-6-35 (a) (5) provides that all appeals from orders revoking probation shall be made by application for discretionary appeal. Such applications must be filed within 30 days of the order sought to be appealed. OCGA § 5-6-35 (d). In this case, Moore did not file an application for discretionary appeal within 30 days of the trial court's order revoking his probation, and his failure to do so deprives this Court of jurisdiction over this appeal. Accordingly, this application for discretionary appeal is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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Will L. Martin, III

Clerk.

NOV 18 1998

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

ATLANTA, NOVEMBER 25, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0091

BUSINESS INNOVATIONS, INC. V. INFLIGHT SUPPLY INTERNATIONAL, ET AL

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

92010

97G63760

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 25 1998

*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.

Will. L. Martini, III

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

ATLANTA, NOVEMBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0092

ERNESTO SUAREZ, ET AL V. MICHAEL JACK HALBERT, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94010

E66567

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 9 1998

*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.

William L. Martin, III

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

ATLANTA, NOVEMBER 23, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0093
NORTH GEORGIA MEDICAL CENTER V. FOOD LION, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91010
98CV37

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 23 1998*

*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.

William L. Martin, III

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

ATLANTA, NOVEMBER 12, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0094
DANNY AUTRY V. JENNIFER D. SANDERS

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

95010
98V328

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 12 1998

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
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Clerk.

Will. L. Martin, III

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

ATLANTA, NOV 20 1998

The Court of Appeals hereby passes the following order:

A99D0095. Michael Francis Sinnott v. Susan Lynne Gallup Sinnott

Applicant Michael Francis Sinnott seeks discretionary review of the trial court's order in a contempt action involving a child custody dispute. The order Sinnott seeks to have reviewed was filed of record on September 25, 1998. Sinnott filed this application on November 3, 1998. Applications for discretionary review must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Sinnott's application was not filed until 39 days after entry of the order complained of, and is therefore untimely. Because the application was not timely filed, this Court lacks jurisdiction to review the application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 20 1998

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 08, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0095

MICHAEL FRANCIS SINNOTT V. SUSAN LYNNE GALLUP SINNOTT

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

90-010
E63066

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC - 8 1998*

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Will L. Martz, III Clerk.

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

ATLANTA, NOVEMBER 24, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0096
JOSEPH WELDON MELTON V. DIANA ROBBINS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98010
D98831

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 24 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

William L. Martin, III

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

ATLANTA, DECEMBER 01, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0097

REBEKAH LYNN ARCHER V. JOHN SAMUEL ARCHER, JR.

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

97010

98CV00878

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 01 1998

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*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 18, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0098
SHERRY MICHELLE FLOYD V. SHERRY MARTIN FLOYD

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

99010

93V48010

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

NOV 18 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0099

CLARE S. AKERS V. JOHN JOSEPH FAY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91011

9525795

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 20 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 24, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0100
CAROLYN ELAINE BYRD V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93010

91CR1777 92CR249 95CR984

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 24 1998

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Clerk.

William L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0101
VERA L. WEST V. THE JONES COMPANY, ET AL

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

96010

98V196 256-68-2760

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC - 2 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0102

TIMOTHY SOSEBEE V. THE STATE

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

92011

96CR17901

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC - 2 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 25, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0103

GEORGIA DEPARTMENT OF MEDICAL ASSISTANCE V. ROYAL LION TRANSPORTATION

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

94011

E67695

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 25 1998

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Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0104

JASON BACON V. ECHOLS COUNTY DEPARTMENT OF FAMILY AND CHILDREN
SERVICES

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

95011

05098J18

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 20 1998

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Clerk.

Will L. Martin, III

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

ATLANTA, DECEMBER 03, 1998

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0104

JASON BACON V. ECHOLS COUNTY DEPARTMENT OF FAMILY AND CHILDREN
SERVICES

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

95-011
05098J18

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC - 3 1998*

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Will. L. Martin, III

Clerk.

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

ATLANTA, NOVEMBER 25, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0105

DRUID HILLS CIVIC ASSOCIATION, INC., ET AL V. THOMAS Y. SHIM, ET AL

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

90011

96CV122214

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 25 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, DECEMBER 03, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0106
GEORGIA BOOT, INC., ET AL V. JOHN O. SPARROW

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

98011

255-82-1401 98CV306DB

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC -3 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0107
LTI LEASING/ LUMBER TRANSPORT, ET AL V. JOHN D. MILLER

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

97011

456-51-1251 98V482

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 2 1998

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William L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 09, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0108
GEORGIA DEPARTMENT OF HUMAN RESOURCES ex. rel. SHERYN C. DEASON V.
JAMES E. DEASON, SR.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99011

97A85264

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 9 1998

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the minutes of the Court of Appeals of Georgia.*

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Clerk.

Will L. Martin, III

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

ATLANTA, NOVEMBER 24, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0109

WADE WALKER V. UNITED FOOD & COMMERCIAL WORKERS LOCAL 1996

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

93011

E44075

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV 24 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0110

ADAM R. GASLOWITZ, ET AL V. ZML-PROMENADE, L.L.C., ET AL

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

96011

E53236

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC -2 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 07, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0110

ADAM R. GASLOWITZ, ET AL V. ZML-PROMENADE, L.L.C., ET AL

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

96-011
E53236

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN - 7 1999*

*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.*

William S. [Signature]

Clerk.

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0111
ERIC L. HIGHSMITH V. DJUANA ANJEANETTE HIGHSMITH

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

92012

981170405

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

DEC - 2 1998

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Clerk.

Will. L. Martin, III

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

ATLANTA, DEC - 4 1998

The Court of Appeals hereby passes the following order:

A99D0112. IN THE INTEREST OF: R. F., S. D., C. M. F.

Applicant seeks an appeal from separate orders adjudicating her three children to be deprived and awarding temporary custody to the Pike County Department of Family and Children Services. Respondent argues that the orders are directly appealable and therefore applicant has pursued the wrong appellate procedure. See In the Interest of J. P., 267 Ga. 492 (480 SE2d 8) (1997). We agree. However, we reject respondent's contention that because the orders are directly appealable this court is without jurisdiction to consider the application and that it must therefore be denied. On the contrary, under the circumstances this court is not only authorized but is required to grant the application pursuant to OCGA § 5-6-35 (j).

Accordingly, the application is hereby GRANTED. Applicant shall have ten days from the date of this order to file her notice of appeal. The clerk of the juvenile court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC - 4 1998

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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.*

Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, DEC 14 1998

The Court of Appeals hereby passes the following order:

A99D0113. D.M.I. DISTRIBUTION, INC., ET AL V. KAMRON B. SHAW

D.M.I. Distribution, Inc. seeks discretionary review of the superior court's order which had affirmed in part and reversed in part the decision of the State Board of Workers' Compensation Appellate Division affirming the award of the administrative law judge. This Court is required to review workers' compensation awards under the "any evidence" rule, and if the ALJ and the Board accept the testimony of the claimant, we must affirm. Metro Interiors, Inc. v. Cox, 218 Ga. App. 396 (461 SE2d 570) (1995). Determinations of credibility and weight of testimony are for the ALJ and the Board, not for reviewing courts. Id.

Accordingly, this Court is bound to accept the Board's findings of fact because they are supported by some evidence. The ALJ and the Board were not compelled by the evidence to accept the employer's contentions that Shaw was no longer disabled as of September 17, 1997, that the yard work Shaw performed on September 18, 1997, was not normal daily activity, and that Shaw suffered a new injury while performing the yard work. The Board was authorized instead to find that Shaw suffered continuously from his on-the-job injury of September 3, 1997, that he was still disabled as of September 17, 1997, and that on September 18, 1997, he suffered a change of condition for the worse.

Furthermore, the superior court was authorized in reversing the Board and ordering D.M.I. to pay the medical bills of Dr. Kjeldgaard as of November 5, 1997, when D.M.I. controverted Shaw's claim. Although Dr. Kjeldgaard was not on D.M.I.'s panel of authorized treating physicians, under Board Rule 201 (b), "[t]he employer . . . cannot restrict treatment of the employee to the panel of physicians . . . when the claim has been controverted." See also Capital Atlanta, Inc. v. Carroll, 213 Ga. App. 214, 216 (3) (a) (444 SE2d 592) (1994). Contrary to D.M.I.'s contention, the superior court's holding is consistent with Wright v. Overnite Transp. Co., 214 Ga. App. 822 (449 SE2d 167) (1994). Wright held that "where the claimant changes

doctors at a time the employer is providing medical care, the employer's subsequent termination of medical care and controversion of the claim does not excuse the claimant's failure to petition for a change 'at the time other medical services were sought.'" Id. Because Shaw failed to petition for a change of treating physician, the superior court disallowed all of Dr. Kjeldgaard's expenses prior to the date D.M.I. controverted the claim, in accordance with Wright. Once the claim was controverted on November 5, 1997, however, Shaw was free to seek treatment from the physician of his choice, and the superior court was authorized in ordering D.M.I. to pay Dr. Kjeldgaard's bills after this date.

The application is hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 14 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0113

D.M.I. DISTRIBUTION, INC., ET AL V. KAMRON B. SHAW

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

91-012
595-30-2564 CV981677

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB - 3 1999

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*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 07, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0114
ROSALIND HOUSER, ET AL V. JULIE BAIMA

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

95012

97CV17519

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC -7 1998

*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.

William L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0115

PINSON TRUCKING COMPANY, INC., ET AL V. JOHN D. MILLER

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

97012

456-51-1257 98V482

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC - 2 1998

*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.

Will L. Martin, III

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

ATLANTA, DECEMBER 14, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0116

DONALD G. DAVIS V. DOUGHERTY COUNTY BOARD OF EDUCATION

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

90012

255-74-0333 98CV19413

Court of Appeals of the State of Georgia
DEC 14 1998
Clerk's Office, Atlanta

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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.

William L. Martin

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

ATLANTA, NOVEMBER 20, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0117
TOMMY M. DOWNS V. THE STATE

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

98012

CR941510MI

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 20 1998

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 07, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0118
CANNON AIR TRANSPORT SERVICES, INC. V. STEVENS AVIATION, INC.

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

99012

98V0278

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

DEC -7 1998

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

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, DECEMBER 15, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0119
AFOZ S. PAINTER V. CITY OF COLLEGE PARK, ET AL

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

93012
E65639

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

DEC 15 1998

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 02, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0120

FREE AT LAST BAIL BONDS (JESSE SCRUGGS) V. THE STATE OF GEORGIA

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

96012

170758

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC -2 1998*

*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.*

Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, December 4, 1998

The Court of Appeals hereby passes the following order:

A99D0121. MARVIN DALE COLLINS v. KRISTA LEANN COLLINS

Marvin Collins filed this application for discretionary appeal from the trial court's October 15, 1998 order granting Krista Collins' motion for new trial and vacating the final judgment entered on August 13, 1998. Although the case remains pending below, the applicant did not obtain a certificate of immediate review as required by OCGA § 5-6-34 (b). "As [the applicant's] appeal was taken from an order granting a new trial and this court has not granted an interlocutory appeal, this appeal must be dismissed as premature." Young v. Warren, 155 Ga. App. 362 (270 SE2d 897) (1980) (citations omitted). Accordingly, it is hereby ordered that this application be DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC - 4 1998

*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.*

Will. L. Mart, Jr. Clerk.

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

ATLANTA, DECEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0122
SONJA STRAIN V. DEXTER STEVERSON

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

94013

DR980234MO

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

DEC 17 1998

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 15, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0123
TONYA LOGUE, as Guardian for ASHLEY LOGUE & ZACHARY LOGUE V.
GREGORY BRIDGE COMPANY, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91013

98RCCV793 257-27-3775

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 15 1998

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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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0124. GENE W. WALTERS et al. v. CAROL MOSELY.

This application for discretionary appeal is from an order granting a post-judgment motion to compel production of documents and interrogatories, and awarding the plaintiff \$500 attorney fees for having to prosecute the motion to compel. However, such a ruling requires the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b). See, e.g., Esasky v. Forrest, 231 Ga. App. 488 (499 SE2d 413) (1998). The applicants, in fact, requested a certificate of immediate review but the trial court denied it. The trial court's ruling in this case not being subject to the discretionary appeal procedures under OCGA § 5-6-35, the application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC -2 1998

*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.*

Will. L. Mart, III Clerk.

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

ATLANTA, DECEMBER 10, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0125
SERPENTFOOT V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90013

95M237981

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 10 1998

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 04, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0127
JOHN KONGPACHITH V. JENNY SOUMOUNTHA

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

97013

SU96CV1631S

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC - 4 1998*

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0128

KATHLEEN LAMKIN JACKSON SMITH, ET AL V. PULASKI COUNTY, ET AL

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

99013

97V7936

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 17 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

William L. Martin, III Clerk.

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

ATLANTA, JANUARY 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0130

SHEPHERD CONSTRUCTION COMPANY, ET AL V. MICHAEL D. MCCAIN

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

96013

98A073724 341-50-1820

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 4 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

William L. Mast, III

Clerk.

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

ATLANTA, FEBRUARY 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0130

SHEPHERD CONSTRUCTION COMPANY, ET AL V. MICHAEL D. MCCAIN

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

96-013
98A073724 341-50-1820

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 3 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 22, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0131

BURT ALLEN USSERY, III V. GEORGIA DEPARTMENT OF HUMAN RESOURCES

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

92014

97CSV486

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 22 1998

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0132
BRIAN KEITH WARE V. THE STATE

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

94014

92CR166271 93CR16896

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 17 1998

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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.*

Will. L. Martin, III Clerk.

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

ATLANTA, DECEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0133
ALICIA F. DISMER V. MARGARET LUKE, ET AL

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

91014

CA9501597

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 17 1998

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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.

Will. L. Martin, III

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

ATLANTA, JANUARY 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0134
CITY OF ATLANTA, ET AL V. BRADCO, INC.

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

95014

E67764

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN - 4 1999*

*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.

Will. L. Martin, III

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

ATLANTA, DECEMBER 11, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0135
LEWIS NEWMAN, INC. V. JOHN A. HOCK, SR.

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

90014

981411128

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 11 1998*

*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.

Will. L. Martin, III

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

ATLANTA, DEC 10 1998

The Court of Appeals hereby passes the following order:

A99D0136. Jones v. The State

Alvin Tracy Jones filed this application for discretionary review of the trial court's revocation of his probation. The order revoking Jones' probation was filed of record on October 5, 1998. Jones filed this application for discretionary review with the Supreme Court on November 20, 1998. The Supreme Court transferred the application to this Court by order dated December 4, 1998. Applications for discretionary review must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). In this case, Jones's application was filed 46 days after entry of the order complained of, and therefore is untimely. Accordingly, this Court lacks jurisdiction to consider this application and it is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 10 1998

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

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hereto affixed the day and year last above written.*

William L. Martin, III

Clerk.

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

ATLANTA, DECEMBER 17, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0137
IVERY HOLT, ET AL V. CHARLES KITE, ET AL

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

97014

97108747

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 17 1998*

*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
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Clerk.

William L. Martin, III

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

ATLANTA, DECEMBER 29, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0138
CYNTHIA ANN THOMPSON V. TOMMY JAMES THOMPSON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99014

98CV1050 98CV0902

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 29 1998

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, DEC 10 1998

The Court of Appeals hereby passes the following order:

A99D0139. HOWARD JULIAN RABON v. CLAUDIA BROWN.

This application for discretionary appeal is from a temporary order of the Superior Court of Decatur County granting a petition for modification of child support but reserving a ruling on a request for attorney's fees. As no final judgment has been entered, the interlocutory appeal procedures as set forth in OCGA § 5-6-34 (b) were required to obtain review of the superior court's order. See, e.g., Scruggs v. Ga. Dept. of Human resources, 261 Ga. 587 (408 SE2d 103) (1991). Accordingly, this application must be dismissed as premature.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 10 1998

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

W. L. Mat, III

Clerk.

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

ATLANTA, DEC 22 1998

The Court of Appeals hereby passes the following order:

A99D0140. BRASSFIELD & GORRIE, et al v. ROBERT OGLETREE

This application for discretionary appeal is from an order of the superior court affirming the award of the State Board of Workers' Compensation, but reserving a ruling on a request for attorney fees. As no final judgment has been entered, the interlocutory appeal procedures as set forth in OCGA § 5-6-34 (b) were required to obtain review of the superior court's order. See, e.g., Scruggs v. Ga. Dept. of Human resources, 261 Ga. 587 (408 SE2d 103) (1991). Accordingly, this application must be DISMISSED as premature.

Court of Appeals of the State of Georgia

DEC 22 1998

Clerk's Office, Atlanta

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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.*

Will L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0140

BRASSFIELD & GORRIE, ET AL V. ROBERT OGLETREE

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

96-014
98CV2566 912-738-9286

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB - 3 1999

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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.

William L. Martin, III

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

ATLANTA, DECEMBER 29, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0142

LARRY E. CLARK V. KWIK-FIT TIRE & SERVICE CENTER, INC., ET AL

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

94015

97A372922

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 1998

*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
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Clerk.

William L. Martin, III

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

ATLANTA, DECEMBER 21, 1998

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0143

SID MILES, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY V. THOMAS L.
DUREN, JR.

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

91015

E71168

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 21 1998

*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.*

Will. L. Martin, III

Clerk.



SUPREME COURT OF GEORGIA

Case No. S99D0299.

Atlanta **DEC 04 1998**

The Honorable Supreme Court met pursuant to adjournment.

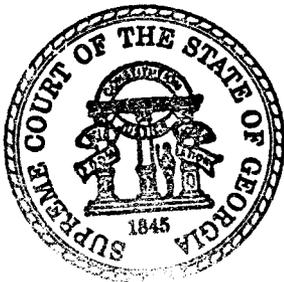
The following order was passed:

CHARLES FRANK PARHAM v. THE STATE

As it appears there is no basis for invoking the jurisdiction of this Court, the instant application for discretionary appeal of a consent order revoking Appellant's probation, is hereby transferred to the Court of Appeals. See Scriven v. State, 179 Ga. App. 513 (1986).

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto
affixed the day and year last above written.



Lynn M. Stinchcomb, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, JAN - 6 1999

The Court of Appeals hereby passes the following order:

A99D0144. CHARLES FRANK PARHAM v. THE STATE

On December 7, 1998, applicant Charles Frank Parham filed this application for discretionary appeal from an October 12, 1998 order of the superior court which revoked his probation. Parham also filed an application for discretionary appeal in the Supreme Court of Georgia which application was filed on November 17, 1998 in that court. The Supreme Court transferred Parham's application to this Court on December 8, 1998, but the transferred application was not docketed in this Court because it did not comply with OCGA § 5-6-4.

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Parham filed his application in this Court more than 30 days after entry of the order appealed, it is untimely.¹ This Court lacks jurisdiction to consider an untimely application. Fabe v. Floyd, 199 Ga. App. 322 (405 SE2d 265) (1991). For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 6 1999

*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.*

Will L. Martin, III

Clerk.

¹It is noted that Parham also failed to file his application in the Supreme Court within 30 days of the order he sought to appeal.

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

ATLANTA, JANUARY 25, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0144

CHARLES FRANK PARHAM V. THE STATE

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

95-015
95081005

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

JAN 25 1999

*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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JANUARY 21, 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0145 ELBURZ CORPORATION, ET AL v. GYRO WRAP

Upon consideration of the motion for reconsideration, it is ordered that it be hereby dismissed as untimely filed.

90-015

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 21 1999

*I certify that the above is a true extract from
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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 21, 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0145 ELBURZ CORPORATION, ET AL v. GYRO WRAP

Upon consideration of the motion for reconsideration, it is ordered that it be hereby dismissed as untimely filed.

90-015

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 21 1999

*I certify that the above is a true extract from
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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, DEC 30 1998

The Court of Appeals hereby passes the following order:

A99D0146. CLARK v. THE STATE.

Eugene Clark, Jr., who is incarcerated, seeks an appeal from an order denying reconsideration of an order denying a petition and motion for copies of the record and transcript in a criminal prosecution. The denial of a motion for reconsideration, however, is not an appealable judgment, nor does it extend for filing an appeal. Savage v. Newsome, 173 Ga. App. 271 (326 SE2d 5) (1985). Moreover, Clark's application was not filed within 30 days of any judgment entered in the case as required under OCGA § 5-6-35 (d), including the order denying reconsideration. For the foregoing reasons, Clark's application for appeal is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 30 1998

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0147
DEPARTMENT OF PUBLIC SAFETY V. KIRK L. SCHUEMAN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97015
E65372

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN - 6 1999*

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JAN - 6 1999

The Court of Appeals hereby passes the following order:

A99D0148. SWEETHEART CUP COMPANY, INC. v. CAROLYN DAILEY

Sweetheart Cup Company, Inc. filed this application for discretionary review of an order of the superior court affirming the award of the State Board of Workers' Compensation Appellate Division. This order was filed of record on November 9, 1998. Sweetheart Cup filed this application for discretionary review with this Court on December 11, 1998. Applications for discretionary review must be filed within 30 days of entry of the order complained of. OCGA § 5-6-35 (d). In this case, Sweetheart Cup's application was filed 32 days after entry of the order complained of, and therefore is untimely. Accordingly, this Court lacks jurisdiction to consider this application and it is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 6 1999

*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.*

William L. Martin, III Clerk.

93-015

Court of Appeals of the State of Georgia

ATLANTA, DEC 29 1998

The Court of Appeals hereby passes the following order:

A99D0149. Martin v. The State

James Martin, Jr. filed this application for discretionary review of the trial court's revocation of his probation. The order revoking Martin's probation was filed of record on November 2, 1998. Martin filed this application for discretionary review on December 14, 1998. Applications for discretionary review must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). In this case, Jones' application was filed 42 days after entry of the order complained of, and therefore is untimely. Accordingly, this Court lacks jurisdiction to consider this application, and it is hereby ordered DISMISSED

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 29 1998

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.

Will. L. Martin, III Clerk.

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

ATLANTA, JAN 29 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0149. MARTIN v. THE STATE

Upon consideration of the Motion for Reconsideration filed on behalf of the appellant in the above styled case, said Motion for Reconsideration is hereby granted and the Order dismissing appellant's application for discretionary review issued on December 29, 1998 is hereby vacated. After reviewing the substance of appellant's application for discretionary review of his probation revocation, it is further ordered that appellant's application is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 29 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JANUARY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0150
MICHAEL J. LUNSFORD V. AMANDA J. JOHNSON

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

96015
18275

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN -6 1999*

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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.

Will. L. Martin, III

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

ATLANTA, JANUARY 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0152

MARTIN BROWER, ET AL V. CHRISTOPHER STARKS

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

94016

256/96/8328 1998CV01203

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 13 1999

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*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0151
WILLIAM WATTIE MCGEE, JR. V. MICHELE A. LANTZ

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

92016

97106471

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN -6 1999

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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.

Will. L. Martin, III

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

ATLANTA, JANUARY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0153
CITY OF GRIFFIN V. DOROTHY BELLE MCKEMIE, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91016

94V1458

94V1456

94V1457

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN -6 1999

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN - 6 1999

The Court of Appeals hereby passes the following order:

A99D0154. MANCY MANWELL SMITH v. THE STATE

Applicant Nancy Manwell Smith filed this application for discretionary review of the trial court's order revoking his probation. The order appealed was entered on November 10, 1998. The application was received for docketing in this Court on December 14, 1998. Because the transmittal envelope did not bear the official United States Postal Service postmark date, and Smith did not provide the certified mail receipt upon request as provided by Court of Appeals Rule 4, Smith has not provided proof of a timely certified mailing.

An application for discretionary review must be filed with this Court within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Since Smith's application was filed 34 days after entry of the order complained of, the application is untimely and this Court lacks jurisdiction over this application. Accordingly, this application for discretionary appeal is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN - 6 1999

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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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN - 8 1999

The Court of Appeals hereby passes the following order:

A99D0155. KRIEGER, Chairman, v. WALTON COUNTY BOARD OF COMMISSIONERS.

John Krieger seeks a discretionary appeal from an order denying an award of attorney's fees under several different theories. Krieger filed the application pursuant to OCGA § 5-6-35 (a) (10), which makes the discretionary appeal procedure applicable to awards of attorney's fees or expenses of litigation under OCGA § 9-15-14. However, because it appears Krieger did not rely solely or primarily on OCGA § 9-15-14 and did not otherwise follow the procedure for seeking an award under that Code section, we find OCGA § 5-6-35 (a) (10) to be inapplicable here. See generally Eickhoff v. Eickhoff, 263 Ga. 498, 499 (1) (435 SE2d 914) (1993).

Since the order at issue is directly appealable, Krieger's application for appeal is hereby GRANTED as required under OCGA § 5-6-35 (j). Krieger shall have ten days from the date of this order to file a notice of appeal. The clerk of superior court shall include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 8 1999

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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.*

Jill L. Mart, III

Clerk.



SUPREME COURT OF GEORGIA
Case No. S99D0296.

Atlanta **DEC 04 1998**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SARAH JEAN ALTMAN v. THE STATE

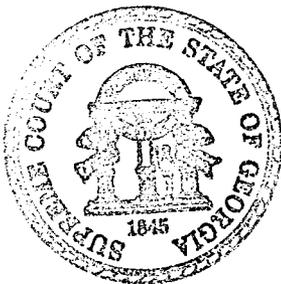
From the Superior Court of Montgomery County.

Applicant filed this application seeking review of a DUI conviction and subsequent order revoking probation. As the issues on appeal do not come within the jurisdiction of this Court, the application is hereby transferred to the Court of Appeals. See Scriven v. State, 179 Ga. App. 513 (1986).

RECEIVED IN OFFICE
1998 DEC -7 AM 11:31

CLERK'S OFFICE
SUPREME COURT OF GEORGIA

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta



I hereby certify that the above is a true extract from
The minutes of the Supreme Court of Georgia
Witness my signature and the seal of said court hereto
Affixed the day and year last above written.

John M. Stinchcomb, Chief Deputy Clerk

RECEIVED IN OFFICE
1998 DEC 17 PM 3:12

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

ATLANTA, DECEMBER 18, 1998

The Court of Appeals hereby passes the following order:

Case No. A99D0156

SARAH JEAN ALTMAN V. THE STATE

The discretionary application received in the above docketed matter does not contain a stamped "filed" copy of the order which is being appealed as required by Rule 32 (b) of the Court of Appeals.

Applicant is hereby ordered to supplement the application with a stamped "filed" copy of the order instanter. If applicant does not cause a copy of said order to be physically filed with the Court within 10 days of the date of this order, the application will be dismissed. Applicant's submission in response to this order will be deemed filed only on the date it is physically received in the Clerk's office.

The Court is required to issue an order granting or denying the application within 30 days of the filing of the application. See OCGA 5-6-35 (f).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 18 1998

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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.

Will L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN 14 1999

The Court of Appeals hereby passes the following order:

A99D0156. SARAH JEAN ALTMAN V. THE STATE.

Sarah Altman was placed on probation for a DUI conviction in August 1998. This application for discretionary appeal is from the trial court's revocation of that probation on November 9, 1998.

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days after entry of the judgment complained of. In this case, although Altman submitted the application earlier, the application could not be accepted for filing until the filing fee was paid on December 17, 1998. See OCGA § 5-6-4. As a result, this application appears to be untimely.

Further, because the application does not contain a stamped "filed" copy of the revocation order, on December 18, 1998, this court ordered Altman to supplement the application with such a copy by no later than December 28, 1998, else the application would be dismissed. No stamped "filed" copy having been physically received by this court as of that deadline, the application is hereby dismissed. Court of Appeals Rule 7.

Court of Appeals of the State of Georgia

JAN 14 1999

Clerk's Office, Atlanta

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JANUARY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0157

SIDNEY DARRELL MITCHELL V. GEORGIA PROFESSIONAL STANDARDS COMMISSION

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

97016

E71456

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN - 6 1999

*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.

Will. L. Martin, III

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

ATLANTA, NOVEMBER 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0158
DESIREE EDGE V. SYNTEC INDUSTRIES, INC., ET AL

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

99016

259-13-1614 98CV138751

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 13 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0159

MAYER ELECTRIC SUPPLY CO., INC., ET AL V. LARRY POST

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

93016

98CV00635 258-84-2158

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 19 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, FEBRUARY 08, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0159

MAYER ELECTRIC SUPPLY CO., INC., ET AL V. LARRY POST

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

93-016
98CV00635 258-84-2158

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

FEB - 8 1999

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

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN - 6 1999

The Court of Appeals hereby passes the following order:

A99D0160. TED LAMAR GRIFFIN v. THE STATE

Ted Lamar Griffin filed this application for discretionary appeal from the trial court's November 25, 1998 order denying his motion for supersedeas bond. An order denying a motion for appeal bond is directly appealable pursuant to Wade v. State, 218 Ga. App. 377 (461 SE2d 314) (1995). Accordingly, the application for appeal is hereby granted pursuant to OCGA § 5-6-35 (j). Griffin shall have ten days from the date of this order to file his notice of appeal. The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, January 11, 1999

The Court of Appeals hereby passes the following order:

A99D0161. TRACY WATSON v. ABRAHAM CLARK.

Tracy Watson seeks an appeal from a child custody order entered November 17, 1998. But her application for discretionary appeal was not filed until December 18, 1998. This was 31 days after entry of the custody order. The discretionary appeal procedures mandate that applications be filed with this court "within 30 days of the entry of the order, decision, or judgment. . ." from which an appeal is sought. OCGA § 5-6-35 (d). Because this application was not filed within the time required, this Court is without jurisdiction to consider it. Accordingly, the application in Case Number A99D0161 must be DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 11 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN 20 1999

The Court of Appeals hereby passes the following order:

A99D0162. JACK DAVIS v. MARKS HANDKERCHIEF

Jack Davis filed this discretionary appeal from the superior court's order affirming an award of the State Board of Worker's Compensation Appellate Division. The superior court originally entered its order on September 17, 1998. From this order, Davis filed a notice of appeal to this Court on October 6, 1998, which was docketed in this Court as appeal number A99A0464. This Court dismissed the appeal on October 27, 1998, on the basis of Davis' failure to follow the discretionary appeals procedures required by OCGA § 5-6-35 (a) (1). Upon motion by Davis, the superior court vacated its original September 17, 1998 order and then reentered the order on November 25, 1998, to allow Davis to file a timely application for discretionary appeal to this Court.

Pursuant to this Court's recent decision in International Indem. Co. v. Robinson, 231 Ga. App. 236 (498 SE2d 795) (1998), this application must be dismissed. Under the reasoning of Robinson, a party who seeks an appeal, but fails to follow the statutory prerequisites, commits a procedural default fatal to his appeal and is thus foreclosed from resubmitting the matter

for appellate review. Id. at 237 (1). In vacating its original order and reinstating the same order in order to provide Davis an opportunity to submit an application for discretionary appeal, the trial court improperly circumvented this Court's dismissal of his original direct appeal. Id. at 237 (2). Accordingly, this application for discretionary appeal is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 20 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III Clerk.

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

ATLANTA,

FEBRUARY 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0162

JACK DAVIS V. MARKS HANDKERCHIEF, ET AL

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

94-017

98RCCV625

253-52-8976

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB -3 1999

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0163
ECKERD DRUGS, ET AL V. HUBERT WILLIAMS

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

91017

98EV513B 258-82-2294

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 19 1999*

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0166

JOVA DANIELS BUSBY, INC. V. GREENFOREST COMMUNITY BAPTIST CHURCH, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98017

98G67334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 19 1999

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Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0168
PATRICK JARDINE V. JAMES THAXTON

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

99017

98VS0145745

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 11 1999

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hereto affixed the day and year last above written.*

Clerk.

William L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

JAN 12 1999

The Court of Appeals hereby passes the following order:

A99D0169. James Brown v. Allied Printing Ink Company

Applicant James Brown filed this application for discretionary appeal following the trial court's grant of summary judgment in favor of Allied Printing Ink Company. However, a losing party has the right to a direct appeal from an order granting summary judgment. OCGA § 9-11-56 (h); Culwell v. Lomas & Nettleton Company, 242 Ga. 242, 243 (248 SE2d 641) (1978). Accordingly, this application is hereby GRANTED pursuant to OCGA § 5-6-35 (j). Brown shall have ten days from the date of this Order to file his notice of appeal. The clerk of the superior court is directed to include a copy of this Order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 12 1999

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William L. Martin, III

Clerk.

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

ATLANTA, JANUARY 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0170
KEVIN LARRY SCOTT V. KRISTI MICHELLE WYATT SCOTT

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

96017

DR970611BA

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 11 1999

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
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Clerk.

Will. L. Mat...

Court of Appeals of the State of Georgia

ATLANTA, JAN 13 1999

The Court of Appeals hereby passes the following order:

A99D0171. MARTIN & MARTIN v. CITY OF FORSYTH.

Martin & Martin's direct appeal in Appeal No. A99A0718 was dismissed on December 18, 1998 for failure to follow the discretionary appeal procedure as required where the judgment in an action for damages totals \$10,000.00 or less. OCGA § 5-6-35 (a) (6). Martin and Martin thereafter filed an application for appeal from the same judgment in Appeal No. A99A0718, along with a "motion to allow out-of-time application to appeal." However, this court is without discretion to consider applicant's request. Applicant had 30 days from the entry of the denial of its motion for new trial to submit its application for appeal to this court for its consideration. OCGA § 5-6-35 (d). Because applicant failed to comply with an absolute requirement of the discretionary appeal procedure, its motion for out-of-time application for appeal is denied and the application is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 13 1999

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
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Will. L. Martin, III Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0172. CHRIS E. VANCE v. DEKALB COUNTY et al.

This application for discretionary appeal is from the trial court's grant of partial summary judgment on November 30, 1998, for some of the defendants in an action over the alleged violation of DeKalb County zoning laws. The appeal of an earlier grant of partial summary judgment in the case, docketed as Case No. A99A0078, is currently before this court. As the grant of partial summary judgment entered on November 30, 1998, likewise may be directly appealed and as the applicant has already filed a notice of appeal, there is no basis for granting this application. See generally, OCGA § 9-11-56 (h); OCGA § 5-6-35 (j). Accordingly, the application is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 25, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0173

DEBBIE A. O'KELLEY V. HALL COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94018

98CV2159B3 252-19-9277

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 25 1999

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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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN 22 1999

The Court of Appeals hereby passes the following order:

A99D0174. ABDUL-SALAAM v. HARDEN.

Hasan Abdul-Salaam, through counsel, filed a petition on March 30, 1998, to decrease child support established by a prior order entered November 5, 1996. Appellee Harden answered, arguing that Abdul-Salaam's petition was barred under OCGA § 19-6-19 (a) since it was filed less than two years after the November 1996 order. Harden also counterclaimed for a modification within the child support guidelines of OCGA § 19-6-15. A temporary hearing of the matter was continued until November 10. The court apparently rejected Harden's defense under OCGA § 19-6-19 (a), but found that an upward modification of support in line with OCGA § 19-6-15 was in order. The court also awarded Harden's prayer for attorney's fees in the amount of \$500.00. Abdul-Salaam has filed a pro se application for appeal of this order.

Our review reveals no basis for granting Abdul-Salaam's application. We specifically note that applicant will not be heard to argue that a modification was not authorized based on the two year limitation of OCGA § 19-6-19 (a) since it appears his counsel successfully argued a contrary position in the court below. Since

applicant's remaining arguments are likewise insufficient to warrant an appeal, Abdul-Salaam's application is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 22 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 15, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0175
THOMAS NICHOLSON V. LURENA BENNEFIELD

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

90018

282547

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 15 1999

*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.

Will. L. Martin, III

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

ATLANTA, JANUARY 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0176
RONALD WORKMAN V. ANDREA EUBANKS

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

98018

97A83724

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 22 1999

*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.

Will. L. Martin, III

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

ATLANTA, JANUARY 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0177
DEBORAH MCCALL V. NATHAN MCCALL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97018
D94349

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 22 1999

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*Witness my signature and the seal of said court
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Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 20, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0178

GEORGE K. GAMBLE, ET AL V. CARSON PRODUCTS COMPANY

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

99018

98V0917

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 20 1999

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
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Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 22 1999

The Court of Appeals hereby passes the following order:

A99D0179. BUCK v. THE STATE.

Jeffrey David Buck seeks an appeal from the order of the superior court revoking his probation. The revocation order was entered on November 25, 1998, and Buck's application was filed 36 days later on December 31. Because Buck failed to file his application within 30 days as required under OCGA § 5-6-35 (d), this court is without jurisdiction to consider his submission. This is true even if, as Buck asserts, he did not receive notice of the revocation order until December 30, 1998. See generally Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc., 167 Ga. App. 257 (306 SE2d 22) (1983). Accordingly, Buck's untimely application is hereby DISMISSED without prejudice to any relief he may seek in the trial court under the holding in Cambron v. Canal Ins. Co., 246 Ga. 147-149 (1) (269 SE2d 426) (1980).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 22 1999

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Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0180
CAL SILITE MANUFACTURING CORPORATION, INC. V. T. JERRY JACKSON, as
Revenue Commissioner

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

96018

9700683

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

JAN 22 1999

*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
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Clerk.

William L. Stewart, III

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

ATLANTA, FEBRUARY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0181

WOODDALE HEALTH CARE CENTER, ET AL V. PATRICIA I. ALLEN

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

92019

71832P 256-92-0610

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 3 1999

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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.

Will. L. Mart, III

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

ATLANTA, MARCH 26, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0181

WOODDALE HEALTH CARE CENTER, ET AL V. PATRICIA I. ALLEN

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

92-019
71832P

256-92-0610

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 26 1999*

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 01, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0182
SURE HEAT / TRU HEAT, ET AL V. PATRICK DENNIS

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

94019

981773818 278-58-7738

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 1 - 1999

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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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN 29 1999

The Court of Appeals hereby passes the following order:

A99D0183. Wyatt Keene v. Ruby Law

Wyatt Keene filed this application for discretionary appeal following a final order by the trial court which issued a dispossessory warrant and awarded Keene to pay past-due rent in the amount of \$53,087.38. OCGA § 5-6-35 (a) (3) requires an application for discretionary review when the appeal involves distress or dispossessory warrants in which the only issue is the amount of rent due and such amount is \$2,500.00 or less. In this case, even if the only issue on appeal is the amount of rent due, that amount clearly exceeds \$2,500.00. Thus, an application for discretionary review is not required.

Keene has simultaneously filed timely a notice of appeal with the State Court of Houston County pursuant to OCGA § 5-6-34 (a) (1). Further, while OCGA § 5-6-35 (d) generally provides that an appeal taken by application must be filed within 30 days of the entry of the judgment complained of, OCGA § 44-7-56 provides specifically that a judgment in a dispossessory proceeding is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Keene's failure to file his application within the seven-day period deprives this Court of jurisdiction to consider the application. Accordingly, this application for discretionary review is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 29 1999

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JANUARY 25, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0184
JOSEPH LEE GRAHAM V. THE STATE

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

95019

1742937

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 25 1999

*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
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Will. L. Martini, III

Clerk.

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

ATLANTA, JAN 19 1999

The Court of Appeals hereby passes the following order:

A99D0185. DAVID JOHNSON v. THE STATE.

This pro se application for discretionary appeal is from a probation revocation order entered on July 10, 1996. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the appealable judgment, and that time requirement is jurisdictional. Cf. Serpentoot v. Salmon, 225 Ga. App. 478 (483 SE2d 927) (1997).

In this case, the trial court granted permission to pursue an out-of-time appeal of the probation revocation, but cited no authority that allows such. Nevertheless, even if the trial court were authorized to grant permission to file an out-of-time application, as that order was entered on December 9, 1998, the deadline for filing such an out-of-time application was January 8, 1999, and this application, filed on January 11, 1999, is untimely in any event. Accordingly, the application is hereby dismissed for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 22 1999

The Court of Appeals hereby passes the following order:

A99D0186. Pitts v. Hart

In this child custody case, Applicant Herschel L. Pitts filed this application for discretionary review of the trial court's denial of his motion for new trial. The order denying Pitts' motion for new trial was filed in the trial court on December 7, 1998. This application was filed in this Court, by certified mail, on January 7, 1999. Applications for discretionary appeal must be filed within 30 days after entry of the order complained of. OCGA § 5-6-35 (d). Pitts' application was not filed until 31 days after entry of the order complained of. Accordingly, this Court lacks jurisdiction to rule on this application and it is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 22 1999

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Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 25 1999

The Court of Appeals hereby passes the following order:

A99D0187. CHRISTINE M. CAPPS v. DR. EDWIN HERRERA

Christine Capps filed an application for discretionary appeal from two orders of the trial court entered on December 11, 1998. One of the orders denied Capp's motion for summary judgment and granted Herrera's motion for summary judgment on his counterclaim pursuant to OCGA § 13-6-11. A losing party has the right to a direct appeal from an order granting summary judgment. OCGA § 9-11-56 (h); Culwell v. Lomas & Nettleton Company, 242 Ga. 242, 243 (248 SE2d 641) (1978). Accordingly, this application is hereby GRANTED pursuant to OCGA § 5-6-35 (j). Capp shall have ten days from the date of this Order to file her notice of appeal. The clerk of the superior court is directed to include a copy of this Order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 25 1999

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the minutes of the Court of Appeals of Georgia.*

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Will. L. Martini, III Clerk.

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

ATLANTA, FEBRUARY 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0188

LOU ETHEL JOHNSON V. HOUSING AUTHORITY OF THE CITY OF MONROE

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

99019

9814222

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB -5 1999*

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, JANUARY 27, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0189

ZACHARY B. TAYLOR V. TOTAL SYSTEMS SERVICES, INC., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93019

SU96CV887

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 27 1999

*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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 25 1999

The Court of Appeals hereby passes the following order:

A99D0190. Robert English, Jr. v. Judge John J. Goger

Robert English, Jr. filed this application for discretionary appeal from the trial court's order which denied filing his "Petition for Writ of Mandamus and Request to Proceed in Forma Pauperis" in which he claimed various abuses of the disciplinary process during his incarceration. The trial court's order was entered on November 30, 1998; however, English did not file his application until January 14, 1999, more than thirty days after entry of the order he seeks to appeal.

An order denying filing of a civil action accompanied by an affidavit of indigence shall be appealable in the same manner as an order dismissing an action. OCGA § 9-15-2 (d). Because English is currently in the custody of the Department of Corrections, this appeal is controlled by the Prison Litigation Reform Act of 1996. OCGA § 42-12-1 et seq. OCGA § 42-12-8 requires that an appeal of a civil action filed by a prisoner "shall be as provided in Code Section 5-6-35." Under OCGA § 5-6-35, in all cases in the categories specified in that code section the party wishing to appeal must file an application for discretionary appeal to the

appropriate appellate court. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because English filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Fabe v. Floyd, 199 Ga. App. 322 (405 SE2d 265) (1991). For this reason, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 25 1999

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

William L. [Signature] Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAR 10 1999

The Court of Appeals hereby passes the following order:

A99D0190. Robert English, Jr. v. Walter Ray, et al.

It appearing that the docketing style of the above case previously shown as Robert English, Jr. v. Judge John J. Goger is incorrect due to clerical error, it is hereby ordered that the docketing style be changed to Robert English, Jr. v. Walter Ray, et al. It is further ordered that English's motion for reconsideration be denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 10 1999

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0191
SONYA DENISE OFCHUS V. ORLANDO ISOM

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92020

98DR020334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB -3 1999

*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
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Clerk.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JAN 25 1999

The Court of Appeals hereby passes the following order:

A99D0192. SIMMONS v. GEORGIA BUREAU OF INVESTIGATION.

Applicant Simmons' direct appeal in Appeal no. A99A0752 was dismissed by opinion issued January 5, 1999 for failure to follow the discretionary appeal procedure as required under OCGA § 5-6-35 (a) (1) and (b). Simmons thereafter filed an application for "out-of-time appeal" from that same judgment. However, this court is without discretion to consider Simmons' request. Simmons had 30 days from the entry of the superior court's order affirming the decision of the State Personnel Board to submit his application for appeal to this court for consideration. OCGA § 5-6-35 (d). Because Simmons failed to comply with an absolute requirement of the discretionary appeal procedure, his application for appeal is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 25 1999

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the minutes of the Court of Appeals of Georgia.*

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Will L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, FEB - 9 1999

The Court of Appeals hereby passes the following order:

A99D0193. Charlene Smith v. Charles Anthony Baptista

Charlene Smith seeks discretionary review of an order which dismissed her action for custody on the ground the trial court lacked jurisdiction. The court held that North Carolina was the proper state to determine custody of the parties' minor child, who was born February 14, 1991.

On September 17, 1998, Smith filed an action in the Superior Court of Floyd County seeking custody of the parties' minor child, then age 7, who was then with her. The parties were never married, but in May 1998, an order of paternity and a child support order had been entered in North Carolina. Charles Anthony Baptista, the child's father, counterclaimed in the Georgia action also seeking custody.

The child resided with her mother in Floyd County, Georgia during the 1997-98 school year, although she had spent most of her life in North Carolina. While she was visiting her father during the summer vacation, Baptista filed a petition for custody in North

Carolina alleging she was at substantial risk of bodily harm. On August 7, 1998, the Civil District Court of Catawba County, North Carolina entered an ex parte order awarding temporary custody to Baptista. On August 26, after a hearing at which the child testified, that court dissolved the temporary custody order but ordered that neither party remove the child from school or North Carolina.

Nevertheless, Smith brought the child to Floyd County. Smith was subsequently arrested and the child was placed in the custody of the Georgia Department of Family and Children Services.¹ On October 7, the North Carolina court granted Baptista temporary custody and set a hearing for January 20, 1999. In that order, the North Carolina court held that it had jurisdiction under N.C. Gen. Stat. §50-A-3(a)(2), 3(ii) and 4(I)[sic] and (ii).² The Floyd County court dismissed Smith's custody suit as well as Baptista's counterclaim on the ground the North Carolina court had jurisdiction.

The Parental Kidnapping Prevention Act ("PKPA"), 28 U.S.C. §1738A, applies in all interstate child custody disputes. Wilson v. Gouse, 263 Ga. 887 (441 SE2d 57) (1994). Section (f) of the PKPA applies:

(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if-

- (1) it has jurisdiction to make such a child custody determination; and

¹A deprivation petition was filed which was ultimately dismissed.

²The North Carolina statute cited is virtually identical to OCGA § 19-9-43 (a) (2)-(4).

(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

Thus, to modify a foreign custody decree, a Georgia court must determine that it has jurisdiction over the custody dispute and find that the state originating the decree has either lost or declined to exercise jurisdiction. Since North Carolina has not declined, and in fact scheduled a later hearing to further consider the matter, the Georgia court correctly concluded it lacked jurisdiction.

The final issue is whether North Carolina has exclusive and continuing jurisdiction under its own laws to modify its custody order. Under subsection (d) of the PKPA, a court which has made a custody determination consistent with the requirements of the PKPA retains jurisdiction as long as the court continues to have jurisdiction over the matter under its own state's laws and such state remains the residence of the child or of any contestant. It is undisputed that Baptista continues to reside in North Carolina. And the Georgia court found that the North Carolina court determined it had jurisdiction, which is correct under the North Carolina statute cited above and the facts found by the Georgia court. Specifically, the court found: although the child was in school in Georgia for the 1997-1998 school year, she had resided for most of her life in North Carolina with either one or both parents; all previous proceedings regarding paternity and custody were conducted in North Carolina; the child was present in Georgia only because Smith brought her to Georgia in violation of a court order.

Accordingly, the trial court correctly determined that North Carolina had jurisdiction over custody and properly dismissed Smith's action. Her application for discretionary appeal is DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 9 1999

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.

Will. L. Martin, III Clerk.

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

ATLANTA, MARCH 05, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0193

CHARLENE SMITH V. CHARLES ANTHONY BAPTISTA

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

91-020
98CV135711

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR -5 1999*

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Clerk.

Will L. Mat, III

Court of Appeals of the State of Georgia

ATLANTA, FEB - 8 1999

The Court of Appeals hereby passes the following order:

A99D0194. BRANDON BABB v. SID MILES

On September 16, 1998, the Department of Public Safety issued an Administrative Hearing Final Decision upholding the revocation of Brandon Babb's driver's licence as a habitual violator as defined in OCGA § 40-5-58. Two of the three offenses cited by the Department when declaring Babb a habitual violator arose from the same transaction on August 3, 1993. Babb argued that the version of the habitual violator law which was in effect in 1993 would have treated the two 1993 charges as one offense. OCGA § 40-5-1 (16.1), added by amendment effective April 15, 1996, defined "Singularly or in combination" to mean "that the department, in determining whether or not a person's license or privilege to operate a motor vehicle on the public highways is to be revoked as a habitual violator, is to treat each charge for which a conviction was obtained as a separate transaction when determining whether or not a person has the requisite convictions which mandate such a revocation." See OCGA § 40-5-58 (a) (2). The superior court affirmed the Department's Final Decision on December 16, 1998, rejecting Babb's argument that OCGA § 40-5-1 (16.1) violated the

constitutional prohibition against the passage of retroactive statutes. Babb filed this application for discretionary review in the Court of Appeals.

However, because Babb's sole contention on appeal is that OCGA § 40-5-1 (16.1), as amended, violates the ex post facto prohibitions contained in the United States and Georgia constitutions, this application for appeal must be transferred to the Supreme Court which has exclusive appellate jurisdiction over cases in which the constitutionality of a statute has been attacked. Ga. Const. 1983, Art. VI, Sec. VI, Par. II. Accordingly, this case is hereby ordered transferred to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 8 1999

*I certify that the above is a true extract from
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*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Jill L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0195
WINIFORD BARNES V. LISA WILLIAMS

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

90020

9824693

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB -9 1999

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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.

William L. Martin, III

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

ATLANTA, MARCH 02, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0195

WINIFORD BARNES V. LISA WILLIAMS

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

90-020
9824693

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR -2 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0196

KEVIN FRANCIS FORIER V. SID MILES, IN HIS CAPACITY AS COMMISSIONER,
GEORGIA DEPARTMENT OF PUBLIC SAFETY

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

98020

98CV141862

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB - 3 1999

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Clerk.

Will. L. Martin, III

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

ATLANTA, FEBRUARY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0197
COLLINS FUNERAL HOME, INC. V. HOWARD COOK

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

97020

981880318 256-72-5581

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB - 3 1999

*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.*

Will L. [Signature]

Clerk.

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

ATLANTA, APRIL 06, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0197

COLLINS FUNERAL HOME, INC. V. HOWARD COOK

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

97-020
981880318 256-72-5581

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR -6 1999

*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.*

Will L. Martin, Jr.

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JAN 29 1999

The Court of Appeals hereby passes the following order:

A99D0198. In re: Jerri Smith

Applicant Jerri Smith filed this application for discretionary review of a custody determination by the trial court in an action between Scarlotte Chanda Smith and Claude Edgar Smith (Jerri Smith's son). However, there is no evidence in the application that Jerri Smith was a party in the case she seeks to appeal. Further, although Jerri Smith references an appendix to the application with numerous exhibits, no appendix was filed with the application. Because Jerri Smith lacks standing to seek an appeal in this matter, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 29 1999

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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.*

Will. L. Mart, III Clerk.

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

ATLANTA, FEBRUARY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0199
MANCY MANWELL SMITH V. THE STATE

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

93020

21912 21969

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB -3 1999

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*Witness my signature and the seal of said court
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Clerk.

Will. L. Austin, III

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

ATLANTA, FEBRUARY 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0200
COBB COUNTY WATER DEPARTMENT, ET AL V. RAYMOND BULLOCK

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

96020

981808422

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 19 1999

*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.

Will. L. Martin, III

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

ATLANTA, FEBRUARY 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0201

GREG BECK V. THE STATE

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

92021

98R5805

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 11 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0202
CAREMASTER, ET AL V. THERESA JOAN BESHEARS

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

94021

254-98-1275 98V360

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 19 1999

*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.

William L. McIntosh, III

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

ATLANTA, FEBRUARY 10, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0203
AL-RUFUS ANDERSON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91021
198853

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 10 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0204
CARMELLA M. LAWLER V. MARK ALAN LAWLER

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

95021

97V1432W

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 22 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, FEB 26 1999

The Court of Appeals hereby passes the following order:

A99D0205. ATLANTIC COAST FEDERAL CREDIT UNION v. DELK.

Plaintiff Atlantic Coast Federal Credit Union filed a complaint seeking a deficiency judgment from J. D. Delk after repossessing his vehicle. Delk answered and counterclaimed, contending that the vehicle was wrongfully repossessed and that it was not sold in a commercially reasonable manner. The case went to trial and the jury returned a verdict for Delk in the amount of \$7,498.00 plus interest and costs. The credit union's "motion for judgment or new trial" was denied and it now seeks an appeal to this court.

The credit union has followed the discretionary appeal procedure because the final judgment is less than \$10,000.00. See OCGA § 5-6-35 (a) (6). However, because it is clear that the judgment entered on the jury's verdict also represents a "zero" award on the main claim, we find OCGA § 5-6-35 (a) (6) to be inapplicable here. See generally Denton v. Hogge, 208 Ga. App. 734 (431 SE2d 728) (1993). The credit union's application is therefore granted pursuant to OCGA § 5-6-35 (j). Applicant shall have ten days from the date of this order to file its notice of appeal. The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90-021

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 26 1999

*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.*

Will L. Mat... Clerk.

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

ATLANTA, FEBRUARY 17, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0206
SID MILES, COMMISSIONER OF DEPARTMENT OF PUBLIC SAFETY V. RONALD S.
SMITH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98021

98CV64

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 17 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0207

ITT SPECIALTY RISK SERVICE, INC. V. MICHAEL D. ROYALS

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

97021

98V0814 227-78-8027

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 26 1999*

*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.*

Will L. Martin, III

Clerk.

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

ATLANTA, February 19, 1999

The Honorable Court of Appeals hereby passes the following order:

CASE A99D0208 ANN L. TITLEMAN v. RONALD L. ELBON

Upon consideration of the motion for withdrawal, it is hereby ordered that said motion be GRANTED.

99-021

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 19 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, FEBRUARY 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0209
SHERI A. GOULD V. KEITH R. GOULD

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

93021

DR951345BR

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

*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.*

Will. L. Mant, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, March 2, 1999

The Court of Appeals hereby passes the following order:

A99D0209. SHERI A. GOULD v. KEITH R. GOULD

Due to clerical error, the Court issued an order on February 24, 1999, denying the discretionary application, when in fact, the Court had granted the application. Therefore, the Court's order of February 24, 1999 denying the discretionary application is hereby VACATED.

Upon consideration of application for discretionary appeal, it is ordered that it be hereby granted. The appellant may file a notice of appeal within ten (10) days of the date of this order. The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR -2 1999

*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.*

Will L. Martin, III

Clerk.

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

ATLANTA, MARCH 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0210

EDWARD ROBERTS V. STRACHAN SHIPPING CO., ET AL

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

96021

CV981479MI 256-04-7975

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR - 4 1999

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.

Jill L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, March 8, 1999

The Court of Appeals hereby passes the following order:

A99D0211. KELL v. GEORGIA DEPARTMENT OF MEDICAL ASSISTANCE.

The Georgia Department of Medical Assistance made a decision to withhold Medicaid payments from EcoMed Laboratories, L.L.C., based on the Department's suspicion that EcoMed had participated in possible fraud or willful misconduct. EcoMed, through non-attorney representative Dr. Michael J. Kell, appealed. An administrative law judge found that Kell had standing to pursue the matter on EcoMed's behalf, but affirmed the Department's decision. The Commissioner of the Department of Medical Assistance entered a final decision affirming the ALJ's decision, which Kell appealed to superior court both on behalf of EcoMed and in his personal capacity. The superior court dismissed the appeal based on lack of service without reaching the question of whether Kell had standing to pursue the appeal pro se in light of the Supreme Court's holding in Eckles d/b/a Atlanta Technology Group v. Atlanta Technology Group, Inc., 267 Ga. 801 (485 SE2d 22) (1997). Kell, representing EcoMed and himself, now seeks an appeal to this court.

The Department has filed a motion to dismiss Kell's application in light of Eckles, supra. We agree that EcoMed is a corporation within the meaning of Eckles and that Kell may not represent EcoMed in this court. Moreover, since Kell's personal interest in this matter cannot be said to be separate and distinct from EcoMed's, he may not pursue this matter pro se even in his individual capacity. It is beyond cavil that "[a] party cannot do indirectly what the law does not allow to be done directly. [Cit.]" Kingsmill Village &c. v. Homebanc &c., 204 Ga. App. 900, 902 (2) (a) (420 SE2d 771) (1992).

For the foregoing reasons, the Department's motion is granted and the application is hereby DISMISSED.

92-022

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 28 1998

*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.*

Will. L. Martin, III

Clerk.



SUPREME COURT OF GEORGIA

Case No. S99D0580.

Atlanta, February 5, 1999

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FILED IN OFFICE
FEB - 5 1999
CLERK COURT OF APPEALS OF GA.

PAULA RENEE IRWIN v. CHRISTINE IRWIN

From the Superior Court of Muscogee County.

As this application for appeal involves only the issue of child custody, not divorce or alimony, and, as the order granting appellee's petition for writ of habeas corpus was not appealed, there is no basis for jurisdiction in this Court and the appeal is hereby transferred to the Court of Appeals. Carter v. Foster, 247 Ga. 26 (273 SE2d 614) (1981).

FILED IN OFFICE

FEB - 5 1999

CLERK COURT OF APPEALS OF GA.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia

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



Lynn M. Stuchcomb

, Chief Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, FEB 12 1999

The Court of Appeals hereby passes the following order:

A99D0212. PAULA RENEE IRWIN v. CHRISTINE IRWIN.

This application for discretionary appeal is from a child custody award. The superior court entered its order on December 4, 1998, and this application was not filed until 39 days later on January 12, 1999. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days after entry of the appealable judgment, and that time requirement is jurisdictional. Hogan v. Taylor County Bd. of Education, 157 Ga. App. 680 (278 SE2d 106) (1981). Accordingly, this application must be dismissed for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 12 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, MARCH 11, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0212

PAULA RENEE IRWIN V. CHRISTINE IRWIN

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

94-022
SU98CV249

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

MAR 11 1999

*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.

Will L. Martin, III

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

ATLANTA,
FEB 26 1999

The Court of Appeals hereby passes the following order:

A99D0212. PAULA RENEE IRWIN v. CHRISTINE IRWIN.

On February 12, 1999, this court dismissed as untimely the application for discretionary appeal filed in this case, based on the trial court's judgment having been entered on December 4, 1998, and the application not having been filed until January 12, 1999. OCGA § 5-6-35 (d). However, on motion for reconsideration, the applicant has demonstrated the application actually was transmitted by certified mail on December 30, 1998. Under Court of Appeals Rule 4, if an application is sent by certified mail, the application is deemed to have been filed on the date of such mailing. It thus appears the application was timely.

Accordingly, the applicant's motion for reconsideration is granted and the previous order of February 12, 1999, dismissing the application, is hereby vacated. The application, having now been considered on its merits, instead is denied.

94-022

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 26 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 08, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0213

KOREY MCCOY V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91022

97296334

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR - 8 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0215

GEORGIA FORESTRY COMMISSION, ET AL V. LARRY TAYLOR

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90022

98V386 259-92-9250

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR -2 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MAR -5 1999

The Court of Appeals hereby passes the following order:

A99D0216. CHARLES UNDERWOOD v. SAM BAITY ET AL.

By order dated February 19, 1999, this court dismissed the application for discretionary appeal filed in this case, on the grounds the judgment appealed from did not dismiss all the defendants in the action and the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b) thus were required. On motion for reconsideration, however, Underwood showed that the other defendants were dismissed in an earlier order of the trial court. Accordingly, the motion for reconsideration is granted and the dismissal order of February 19, 1999, is hereby vacated.

Having reviewed Underwood's application on its merits, the application is denied.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR -5 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 16, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0216

CHARLES UNDERWOOD V. SAM BAITY, ET AL

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

98-022
98CV000178

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 16 1999

*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.*

Will L. Martin, III Clerk.

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

ATLANTA, MARCH 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0217
MCDONALD'S, ET AL V. TIMOTHY BUMPERS

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

97022

98A096541 416-74-9297

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 11 1999*

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 15, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0218
MARTY HALL V. HOME SWEET BUILDERS, INC., ET AL

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

99022

98CV483G 417-11-3109

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 15 1999*

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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.

Will. L. Martin, III

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

ATLANTA, MARCH 17, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0219
WAGA-TV, INC., ET AL V. JAMES S. YANG

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93022

98CV2597 420-78-7430

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 17 1999

*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.*

Will. L. Mart, III

Clerk.

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

ATLANTA, MARCH 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0221
MATTHEW TONY FARRAR V. THE STATE

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

92023

97CR0209

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

MAR 5 1999

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, FEB 26 1999

The Court of Appeals hereby passes the following order:

A99D0220. Schuster v. Schuster

Applicant Agnes Anna Marie Schuster seeks a discretionary appeal of a condition of custody contained in the trial court's final order and decree of divorce. However, the Supreme Court has exclusive jurisdiction over appeals involving a final judgment for divorce. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). Jurisdiction in the Supreme Court is maintained when child custody questions are raised so long as the appeal involves a judgment for divorce. Carter v. Foster, 247 Ga. 26 (273 SE2d 614) (1981); Munday v. Munday, 243 Ga. 863 (257 SE2d 282) (1979). Because this application involves a provision contained in a final order and decree of divorce, it is ordered TRANSFERRED to the Supreme Court.
96-022

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 26 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0222
THE STATE OF GEORGIA V. MARZELLA L. MITCHELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94023
E62211

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

MAR 24 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, MAR -5 1999

The Court of Appeals hereby passes the following order:

**A99D0223. GEORGIA COUNCIL OF PROFESSIONAL ARCHAEOLOGISTS ET AL. v.
BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA ET AL.**

This application for discretionary appeal is from the dismissal of a petition to review and set aside the sale of a 297-acre parcel of land by the Board of Regents of the University System of Georgia to the Development Authority of Gordon County, which intended to construct an industrial park on the property. The petition invoked, inter alia, the superior court's equity power to set aside the deed and sought an order of mandamus requiring the Board of Regents to comply with various provisions of the Georgia Environmental Policy Act, OCGA §§ 12-16-1 et seq. On January 21, 1999, the superior court denied the relief sought and dismissed the petition, giving rise to this application.

Under Ga. Const. 1983, Art. VI, Sec. VI, Par. III, the Supreme Court has original appellate jurisdiction over all equity cases and all cases involving extraordinary remedies. Mandamus is an extraordinary remedy. Felton v. Chandler, 201 Ga. 347 (39 SE2d 654) (1946). As this case sought equitable relief and mandamus, the application is hereby transferred to the Supreme Court.

91-023

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR -5 1999

*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.*

Will. L. Martini, III Clerk.

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0224

NATIONAL TRUST INSURANCE CO. V. HOME INSURANCE CO. ET AL

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

95023

1998CV02457

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 1999

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.

Will. L. Mantz, III

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

ATLANTA, MARCH 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0225
PERMAFLEX SYSTEMS, INC., ET AL V. FRANK E. JONES

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

90023

98V01444 306-66-2095

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 26 1999

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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.

Will. L. Martin, III

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

ATLANTA, MARCH 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0226

QUINN BROWN V. THE STATE

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

98023

CR971683MI

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR -5 1999

*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.*

William L. Martin, III

Clerk.

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0227

BRENDA WATSON SNEED V. SHAW INDUSTRIES, INC.

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

97023

98CV712 240-92-5361

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 24 1999

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.

Will. L. Martin, III

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

ATLANTA, MARCH 15, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0228

RAYMOND MERNEIGH V. THE STATE

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

99023

86758

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 15 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 01, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0228

RAYMOND MERNEIGH V. THE STATE

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

99-023
86758

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR - 1 1999

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.

Will. L. Martin, III

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

ATLANTA, MARCH 15, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0229

RAYMOND MERNEIGH V. THE STATE

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

99024

91-1046

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 15 1999

*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.*

William L. Martin, III

Clerk.

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

ATLANTA, MARCH 15, 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0230 ALLSTATE INSURANCE COMPANY v. ANGELA TRAMMELL, ET AL

The appellant's motion to withdraw an interlocutory appeal is hereby granted.

93-023
98SCA987

MAR 15 1999

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

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0231

T.F. LINCOLN KENNEDY, JR. V. CEDRICA MILLER

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

96023

E69282

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 18 1999

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.

Will. L. Martin, III

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

ATLANTA, APRIL 01, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0231

T.F. LINCOLN KENNEDY, JR. V. CEDRICA MILLER

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

96-023
E69282

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR - 1 1999*

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

Clerk.

Will. L. Martin, III

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

ATLANTA, MARCH 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0232
BRASSFIELD & GORRIE, ET AL V. ROBERT OGLETREE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92024

98CV2566 254-88-8338

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 26 1999

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 29, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0233

BARBARA L. ELROD V. MOHAWK HORIZON, ET AL

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

94024

35031 253-04-3921

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 29 1999

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.

Will. L. Martini, III

Court of Appeals of the State of Georgia

ATLANTA,

MAR 16 1999

The Court of Appeals hereby passes the following order:

A99D0234. WILLIAM LARRY WEAVER v. THE STATE

On February 2, 1999, William Larry Weaver, filed this pro se petition for leave to appeal the trial court's order denying his petition for writ of error coram nobis which has been docketed in this Court as an application for discretionary appeal after transfer from the Supreme Court. The appealed order was filed by the trial court on December 30, 1998. An application for discretionary appeal must be filed within thirty days of the entry of the order appealed. OCGA § 5-6-35 (d). Weaver's petition was filed thirty-four days after the entry of the order appealed and is, therefore, untimely. Accordingly, this application is hereby ordered DISMISSED.

91-024

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 16 1999

*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.*

William L. Weaver, III

Clerk.

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

ATLANTA, MARCH 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0235
NANCY WILSON V. BARBARA PARKS WYNN

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

95024

SU96CV0862J

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

MAR 26 1999

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0236
ANTHONY FULLER V. UNITED DOMINION REALTY TRUST

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

90024

96D10265

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 12 1999*

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0237

SIMON PETER SMITH, SR. V. RANDY MOBLEY, ET AL

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

98024

98CV1511N

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 1999

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.

Will L. Martin, III

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

ATLANTA, MARCH 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0238
ROBERT THOMAS HANNA V. RENE MARIE HANNA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97024

991040424

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 16 1999

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0239

GEORGIA DEPARTMENT OF HUMAN RESOURCES, ex rel., ANGELA PINTER V.
IVIS E. PINTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93024

97V10

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 30 1999

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0240

PEACHTREE CASUALTY INS. CO. V. SARA STRICKLAND, ET AL

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

96024

97CV39392

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 19 1999

*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.

Will. L. Martin, III

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0241

ADRIAN MYLES V. INDIAN SPRINGS CONDOMINIUM ASSOCIATION, INC.

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

92025

98G6991

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 1999

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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, APR - 1 1999

The Court of Appeals hereby passes the following order:

A99D0242. STEWART v. THE STATE.

Jeffrey Stewart seeks an appeal from an order denying his extraordinary motion for new trial entered January 5, 1999. Stewart's application was not properly filed in this court until March 4, 1999. Applications for appeal must be filed within 30 days of the date of the judgment sought to be appealed. OCGA § 5-6-35 (d). Because Stewart's application was not timely filed, this court lacks jurisdiction to consider it. Accordingly, the application is hereby DISMISSED.

94-025

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR - 1 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

Case No. A99D0242

JEFFERY STEWART V. THE STATE

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 APR 21 1999

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.

Will. L. Martin, III

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

ATLANTA, MARCH 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0243

MICHAEL L. THURMOND, COMMISSIONER OF THE GEORGIA STATE DEPARTMENT OF
LABOR V. BALDWIN COUNTY HOSPITAL AUTHORITY, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91025

97CV34122

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 18 1999

*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.*

Will. L. Stewart, III

Clerk.

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

ATLANTA, MARCH 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0244

ALPHONSO CLYDE V. THE STATE

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

95025

47692

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 24 1999

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.

Will. L. Martin, III

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

ATLANTA, MARCH 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0245

OSCAR STOKES, JR. V. GRIFFIN - SPALDING COUNTY SCHOOL SYSTEM

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

90025

98V1672

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 30 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0246

GEORGIA FARM BUREAU MUTUAL INSURANCE COMPANY V. RALPH M. BROWN, ET AL

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

98025

98CA22923

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 7 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0247

WILLIAM BARRY, ET AL V. BALDWIN COUNTY HOSPITAL AUTHORITY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91026

97CV43122

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR 18 1999

*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.

Will. L. Martin, III

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

ATLANTA, APRIL 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0248

MEDICAL CENTER OF CENTRAL GEORGIA V. CARLA SAULSBERRY

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

97025

99CV4207 259-13-0495

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 6 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0249

FELTON DAY, JR. V. MOORE & MURPHY CO., INC., ET AL

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

99025

98CV4094 285-25-4987

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 6 1999

*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.*

Will. L. Martini, III

Clerk.

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

ATLANTA, APRIL 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0250
DONALD G. ALLEN V. WALMART STORES, INC., ET AL

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

93025

98CV121739 589-16-2056

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

APR 7 1999

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 15, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0251

ANNIE R. REDDING V. MARK-LYNN INDUSTRIES, ET AL

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

96025

9938 256-31-1145

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 15 1999

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.

Will. L. Martin, III

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

ATLANTA, JUNE 09, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0251

ANNIE R. REDDING V. MARK-LYNN INDUSTRIES, ET AL

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

96-025
9938

256-31-1145

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

JUN -9 1999

*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.

Will L. [Signature]

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

ATLANTA, March 17, 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0252 SAM'S WHOLESALE CLUB v. VICTORIA RILEY

It appearing the INTERLOCUTORY application case, #A99I0237, was incorrectly filed due to clerical error, it is hereby ordered that said case is hereby changed to a DISCRETIONARY application with the case number A99D0252 as stated above.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 17 1999
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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0252
SAM'S WHOLESALE CLUB V. VICTORIA RILEY

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

96026

97RCSC1034

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 18 1999*

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MARCH 30, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0252

SAM'S WHOLESALE CLUB V. VICTORIA RILEY

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

96-026
97RCSC1034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 30 1999

*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.

Will L. Martin, III

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

ATLANTA, APRIL 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0253
BAKERY SERVICES, INC. V. THORNTON CHEVROLET, INC.

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

92026
938927WW279

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 7 1999*

*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.

Will. L. Martin, III

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

ATLANTA, APRIL 28, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0253

BAKERY SERVICES, INC. V. THORNTON CHEVROLET, INC.

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

92-026
938927WW279

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 28 1999*

*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.*

Will. L. Mart, III

Clerk.

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

ATLANTA, APRIL 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0254

V. DEFORREST PARROTT, III V. JIM MIDDLETON, ET AL

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

94026

711482

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 6 1999

*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.*

Will. L. Mat...

Clerk.

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

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

Case No. A99D0254

V. DEFORREST PARROTT, III V. JIM MIDDLETON, ET AL

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 APR 21 1999

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.

Will L. Mart, III

Court of Appeals
of the State of Georgia

ATLANTA

APR 19 1999

The Court of Appeals hereby passes the following order:

A99D0255. CADLE v. INTEGON INDEMNITY CORPORATION et al.
A99D0256. WILLIAMS et al. v. INTEGON INDEMNITY CORPORATION et al.
A99D0257. CHILON v. INTEGON INDEMNITY CORPORATION et al.
A99D0258. KESSLER et al. v. INTEGON INDEMNITY CORPORATION et al.
A99D0259. SOLOMON v. INTEGON INDEMNITY CORPORATION et al.
A99D0260. THOMAS v. INTEGON INDEMNITY CORPORATION et al.
A99D0261. EDWARDS v. INTEGON INDEMNITY CORPORATION et al.
A99D0262. MALONE v. INTEGON INDEMNITY CORPORATION et al.
A99D0263. WALTERS v. INTEGON INDEMNITY CORPORATION et al.
A99D0264. GOLDEN v. INTEGON INDEMNITY CORPORATION et al.
A99D0265. GOLDEN v. INTEGON INDEMNITY CORPORATION et al.
A99D0266. KESSLER et al. v. INTEGON INDEMNITY CORPORATION et al.
A99D0267. SOLOMON v. INTEGON INDEMNITY CORPORATION et al.
A99D0270. GOLDEN v. INTEGON INDEMNITY CORPORATION et al.
A99D0271. GOLDEN v. INTEGON INDEMNITY CORPORATION et al.

The applicants' respective motions to withdraw Application Nos. A99D0258, A99D0259, A99D0264, and A99D0265 are hereby GRANTED. The above-styled applications not otherwise withdrawn as stated in this order are hereby DENIED. Finally, applicants' respective motions to strike the responses in Application Nos. A99D0255, A99D0256, A99D0257, A99D0260, A99D0261, A99D0262, and A99D0263 are hereby DISMISSED as moot.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 19 1999

*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.

Will. L. Martin, III

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

ATLANTA, APRIL 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0272

BOBBY SKINNER, ET AL V. E. DEFOREST WINSLOW, ET AL

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

97026

96CV983

Court of Appeals of the State of Georgia

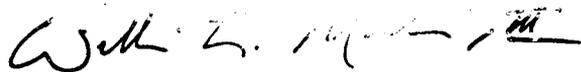
Clerk's Office, Atlanta

APR 13 1999

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, APRIL 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0273

BOBBY SKINNER, ET AL V. BROADWATER DEVELOPMENT, ET AL

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

97027

97CV320

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 13 1999 APR 13 1999

*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.

William L. Martin, III

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

ATLANTA, APRIL 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0274

CRAIG MICHAEL SOWINSKI V. GEORGIA DEPARTMENT OF PUBLIC SAFETY

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

99026

CV98740

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 5 1999

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.

Will. L. Martin, III

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

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0275

SEYMOUR J. GROOVER V. JOHNSON CONTROLS WORLD SERVICE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93026

98V1129 254-51-2319

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 21 1999

*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.*

Will L. Martin, III

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0276
BIBB COUNTY V. TERRI T. HIGGINS, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92027

99CV4236 256-86-7640

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 1999

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.

Will L. Mant, III

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

ATLANTA, APRIL 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0277
JOHN JOSEPH KNIGHT V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94027

96B31123

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 9 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0278

GREG E. ADCOX, ET AL V. FULTON COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91027

E59280

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 13 1999

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

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hereto affixed the day and year last above written.*

Will L. Martin, III

Clerk.

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

ATLANTA, APRIL 27, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0279

DONALD DUNLAP V. BIBB COUNTY FIRE DEPARTMENT, ET AL

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

90027

99CV4181 253-33-0033

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 27 1999

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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, APR 8 1999

The Court of Appeals hereby passes the following order:

A99D0280. GEORGIA RECEIVABLES, INC. v. DOROTHY MURRAY.

This application for discretionary appeal is from the trial court's dismissal of a contract action after setting aside an earlier default judgment entered in the case. As the trial court's order constituted a final judgment for the defendant, direct appeal was proper instead of the discretionary appeal procedures. See Turner v. Taylor, 179 Ga. App. 574 (346 SE2d 920) (1986). Nevertheless, in accordance with OCGA § 5-6-35 (j), this application is hereby granted. Appellant shall have ten days after the date of this order to file its notice of appeal. See OCGA § 5-6-35 (g).

The clerk of the trial court is directed to include a copy of this order in the appeal record.

98-027

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 8 1999

*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.*

Will. L. Mant, III Clerk.

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

ATLANTA, APRIL 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0281
REBECCA LEIGH PIERCE V. METHEN STANLEY

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

99027

94CV4172

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 7 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 27, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0282

T.T.C. ILLINOIS, INC., ET AL V. ROBERT E. DANIELS

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

93027

19999CV03763 429-11-5475

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 27 1999

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.

Will L. Mant, III

Clerk.

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

ATLANTA, APRIL 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0283
BRENDA LYN BONDS V. RICHARD BONDS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

96027

98CV1272

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 9 1999

*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.

Will L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, April 21, 1999

The Court of Appeals hereby passes the following order:

A99D0284. MATHIS v. ROPER.

Defendant Danny C. Mathis seeks an appeal from an order granting judgment in favor of plaintiff Willie E. Roper in the amount of \$6500.00. The judgment was entered on February 23, 1999. Roper filed an application for discretionary appeal by certified mail on March 25, 1999, the last day on which an application could be timely filed in this court. Unfortunately, that application was erroneously mailed by cover letter to the United States Court of Appeals instead of to this Court. The application was not received in this Court for docketing until March 29, 1999.

The respondent has filed a motion to dismiss the application as untimely filed. See OCGA § 5-6-35 (d). We agree that Mathis' application must be dismissed due to his failure to submit it to this court in a timely fashion. Mathis cannot rely on Rule 4 because the application was mailed neither to this court nor to the Supreme Court of Georgia for filing. Mathis' failure to direct his application to the proper court by certified mail is effectively the same as if he had failed to hand deliver the submission to the proper court. In either case, the submission can only be deemed

filed on the date it is physically received in this court, and only if it is accompanied by the required filing fee. See OCGA § 5-6-4.

For the foregoing reasons the respondent's motion to dismiss is GRANTED and Mathis' application is hereby DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 1999

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.

Will L. Mathis, III

Court of Appeals
of the State of Georgia

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0285

THE SERVICEMASTER COMPANY, L.P. V. THE HONORABLE M. GINO BROGDON

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

94028

E71477

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 21 1999

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.

William L. Martin, III

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

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0286

TONY SMITH d/b/a SMITH BONDING COMPANY, ET AL V. STATE OF GEORGIA

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

91028

98CR000283

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 1999

*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.

William L. Martin, III

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

ATLANTA, MAY 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0286

TONY SMITH d/b/a SMITH BONDING COMPANY, ET AL V. STATE OF GEORGIA

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

91-028
98CR000283

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY -3 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, APRIL 29, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0287
SPARTA, INC., ET AL V. MICHAEL A. MARTINEZ

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

90028

1999CV04416 452-55-6227

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 29 1999

*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.

Will. L. Mart, III

Court of Appeals of the State of Georgia

ATLANTA, APR 6 1999

The Court of Appeals hereby passes the following order:

A99D0288. LYNNETTE CANDLIN A/K/A LYNN BROWN v. WILLIAM CANDLIN

Lynnette Candlin filed this application for discretionary appeal seeking review of the trial court's order finding her in wilful contempt of her obligation under the trial court's judgment of divorce regarding transferring responsibility for a vehicle from William Candlin to herself.

Under the state constitution, the Supreme Court has exclusive jurisdiction over all divorce and alimony cases. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). See Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979). Accordingly, this case is ordered **TRANSFERRED** to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 6 1999

*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.*

Will. L. Mat, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, APR 12 1999

The Court of Appeals hereby passes the following order:

A99D0289. JAMES K. HOUSTON v. WALTER S. RAY, CHAIRMAN, GEORGIA STATE BOARD OF PARDONS AND PAROLES.

This pro se application for discretionary appeal is from the trial court's order disallowing a Georgia prison inmate's filing a civil action. The trial court's order was entered on March 3, 1999, but this application was not filed until 33 days later on April 5, 1999. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days after entry of the judgment for which an appeal is sought. See, e.g., Rosenstein v. Jenkins, 166 Ga. App. 385 (304 SE2d 740) (1983). Accordingly, this application is hereby dismissed for lack of jurisdiction.

97-028

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 12 1999

*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.*

Will L. Mont, III Clerk.

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

ATLANTA, APRIL 28, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0289

JAMES K. HOUSTON V. WALTER S. RAY, CHAIRMAN, GEORGIA STATE BOARD OF
PARDONS AND PAROLES

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

97-028
1999CV06555

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 28 1999

*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.*

Will L. Mat, III

Clerk.

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

ATLANTA, APRIL 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0290
RELIFORD LOGGING CO., ET AL V. LARRY BROWN, ET AL

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

99028

99V6 424-70-5763

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 30 1999

*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.

William L. Martin, III

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

ATLANTA, APRIL 21, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0291

ALVIN W. HOGAN V. THE STATE

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

93028

98C24629

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 1999

*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.

L. L. Mat...

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

ATLANTA, APRIL 29, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0292

CHARLES DAVID ANDERSON V. JACQUELINE WHEELING

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

96028

99CV29

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 29 1999

*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.*

Will L. Mart, III

Clerk.

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

ATLANTA, MAY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0293
WORLD CARPETS, INC. V. JIMMY DEAN GRIZZLE

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

92029

99CI72 314-66-0221

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY - 3 1999

*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.

Will. L. Martin, III

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

ATLANTA, APRIL 29, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0294
STEVEN W. HALL V. RICKY COLEMAN, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94029
980662F

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 29 1999*

*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.

Will L. McIntosh, III

Court of Appeals of the State of Georgia

ATLANTA, APR 22 1999

The Court of Appeals hereby passes the following order:

**A99D0295. GEORGIA DEPARTMENT OF HUMAN RESOURCES, ex rel.,
STEPHANIE WEST v. MICHAEL G. WEST.**

In this case, Michael West sought declaratory judgment that OCGA § 19-11-9.3 is unconstitutional. On October 22, 1998, the superior court found the statute constitutional if applied a certain way, and reserved a ruling on whether to award West attorney's fees under 42 U.S.C.A. § 1988. This application for discretionary appeal is from the superior court's subsequent award of \$2,617.96 attorney's fees. There being no basis in OCGA § 5-6-35 (a) for requiring an application for appeal of such a judgment, this application is hereby granted pursuant to OCGA § 5-6-35 (j).

The Georgia Department of Human Resources shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 22 1999

*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.*

Will L. Mant, III Clerk.

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

ATLANTA, MAY 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0296
KURTIS BARRONTON V. LUANN WATSON

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

90029
96V578

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY - 3 1999*

*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.*

William L. Martin, III

Clerk.

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

ATLANTA, APRIL 28, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0297
ROSALIND HALL V. WOODROW HALL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98029

9733706 97122646

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 28 1999

*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.*

Will. L. Mart, III

Clerk.

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

ATLANTA, APRIL 28, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0298

RICHARDS & MALLOY MFG., ET AL V. JIMMY N. HELMS

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

96029

99CV000027 257-27-4884

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 28 1999

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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.

Will L. Martin, III

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

ATLANTA, MAY 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0299

CINDY WARD V. GEORGIA DEPARTMENT OF HUMAN RESOURCES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97029

97CV3095

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY - 7 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MAY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0300

BRADY CONSTRUCTION COMPANY ET AL V. CLIFTON EUGENE CAREY

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

99029

99EV86J 252-08-5767

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 15 1999

*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.*

William L. McArthur, III

Clerk.

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

ATLANTA, MAY 20, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0300

BRADY CONSTRUCTION COMPANY ET AL V. CLIFTON EUGENE CAREY

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

99-029
99EV86J 252-08-5767

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 20 1999

*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.*

Will. L. Martini, III

Clerk.

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

ATLANTA, APR 27 1999

The Court of Appeals hereby passes the following order:

A99D0301. D. LEROY A/K/A DEREK LEROY MCSMITH v. ATLANTA VOICE, ET AL.

This application for discretionary appeal is from the superior court's order granting the Atlanta Voice's motion for sanctions pursuant to OCGA § 9-11-37 (d) and compelling D. Leroy to respond to certain interrogatories propounded by the Atlanta Voice. However, because the order does not appear to be the final judgment in the case and Leroy did not otherwise follow the procedure required to seek an interlocutory appeal, his application is unauthorized and is therefore DISMISSED. OCGA § 5-6-34 (b); Scruggs v. Ga. Dept. of Human Resources, 261 Ga. 587 (408 SE2d 103) (1991); Cornelius v. Finley, 204 Ga. App. 299 (418 SE2d 815) (1992).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 27 1999

*I certify that the above is a true extract from
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Will. L. Mant, III

Clerk.

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

ATLANTA, MAY 11, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0301

D. LEROY A/K/A DEREK LEROY MCSMITH V. ATLANTA VOICE ET AL

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

70-029
98CV00427

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 11 1999*

*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.*

Will L. Mat, III

Clerk.

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

ATLANTA, MAY 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0302

EDWARD J. SIMPSON V. CHEROKEE BRICK & TILE

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

71029

99CV4569

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 6 1999

*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.*

Will L. Martin, III Clerk.

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

ATLANTA, APRIL 29, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0303

ROCKDALE COUNTY BOARD OF EDUCATION ET AL V. FRANCES CAREY

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

93029

99CV12541

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

APR 29 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 13, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0303

ROCKDALE COUNTY BOARD OF EDUCATION ET AL V. FRANCES CAREY

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

93-029
99CV12541

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 13 1999**

*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.

Will. L. Martin, III

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

ATLANTA, MAY 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0304

CITY OF ALPHARETTA V. CLAY HILDEBRANDT ET AL

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

92030

371051

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY - 5 1999

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.

Will. L. Martin, III

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

ATLANTA, MAY 14, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0305
ANGELYN COUCH COBB V. THURMAN B. WILSON

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

94030
E61480

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 14 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 10, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0307
ALL STAR HEATING ET AL V. DEBRA WAGNER

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

96030

99CV0290 252-15-4048

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 10 1999*

*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.

Will. L. Mart, III

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

ATLANTA, MAY 10, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0308
KEVIN LABREC V. JONATHAN R. DAVIS ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90030

97112132

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

MAY 10 1999

*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.

Will L. [Signature]

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

ATLANTA, MAY 05, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0309
JOHN W. SAXTON V. SERVICEMASTER CO. ET AL

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

97030

9617853 419-96-4995

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 5 1999

*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.*

Will. L. Mont, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY - 6 1999

The Court of Appeals hereby passes the following order:

A99D0310. Robert Hill v. John Doe

The Law Offices of Allan Khoshbin, as attorney for Robert Hill, filed this discretionary application seeking review of the trial court's award of sanctions jointly against Khoshbin and Hill. However, an appeal of the sanction imposed does not come within any of the enumerated provisions contained in the discretionary appeal statute. OCGA § 5-6-35 (a). Further, the case below is final, and thus the interlocutory appeal requirements are not mandated. OCGA § 5-6-34 (b). Accordingly, there being no basis in OCGA § 5-6-35 (a) for requiring an application for appeal, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

The Law Offices of Allan Khoshbin shall have 10 days ~~from~~ the date of this order in which to file a notice of appeal. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this Court.

99-030

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY - 6 1999

*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.

William L. Mart, III

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

ATLANTA, MAY 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0311
TONY L. THOMAS V. SOUTHWIRE COMPANY

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

70030

99V0182 256-23-0888

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 11 1999

*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.

Will. L. Martin, III

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

ATLANTA, JUNE 01, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0311

TONY L. THOMAS V. SOUTHWIRE COMPANY

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

70-030
99V0182

256-23-0888

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN - 1 1999*

*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.*

Will L. Martin,  Clerk.

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

ATLANTA, MAY 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0312
SUSAN FREED V. PEDRO VEGA

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

71030

98129221 0000-00-1543

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 12 1999

*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.

William L. Martin, III

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

ATLANTA, MAY 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0313

GEORGIA - FLORIDA AGRICULTURAL SUPPLY, INC., ET AL V. JERRY W. LOVELL

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

91030

260-98-7945

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 11 1999

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.

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 28 1999

The Court of Appeals hereby passes the following order:

A99D0314. TEMEGA INDUSTRIAL RECYCLING, INC. v. GEORGIA PERSONNEL SERVICES. INC.

Pursuant to OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the entry of the order, decision, or judgment complained of by the applicant. The order of the superior court in the above-captioned case was filed on March 26, 1999. This application was not docketed until Wednesday, April 28, 1999. Thus, this application is untimely and this court is without jurisdiction. Bigam v. Wright, 194 Ga. App. 194, 195 (390 SE2d 109) (1990).

93-030

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 28 1999**

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, MAY 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0315
LINDA SUE ARNOLD V. NEVA MORENO

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

92031

98CV16726

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 18 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 20, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0316

STRATOFLEX - PARKER HANNIFIN CORPORATION, ET AL V. BARBARA ANN WALKER

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

94031

9932537 254-54-2647

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 20 1999

*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.*

Will L. [Signature]

Clerk.

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

ATLANTA, JUNE 03, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0316

STRATOFLEX - PARKER HANNIFIN CORPORATION, ET AL V. BARBARA ANN WALKER

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

94-031
9932537 254-54-2647

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

JUN -3 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, MAY 25, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0317
R&R ENTERPRISES, ET AL V. WILLIAM GRANGER

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

98031

99V0080 259-62-2919

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 25 1999*

*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.

Will. L. Martini, III

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

ATLANTA, MAY 25, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0318

MICHAEL CRANSTON DAVENPORT V. TINA MICHELLE DAVENPORT f/k/a

TINA M. SLAYTON

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

96031

98V295

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 25 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 17, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0319
MARTY J. BURKETT V. LORI WILLIAMS

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

90031

97CV782

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 17 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0320

PIERCE TIMBER COMPANY, ET AL V. RUSSELL WAYNE CRIBB

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

97031

99CV018 261-55-5129

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 12 1999

*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.

Will L. Martin, III

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

ATLANTA, MAY 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0321

LANIER C. SMITH V. ELEANOR M. SIMMONDS, ET AL

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

99031

97OV110B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 26 1999

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.

Will. L. Mat... III

Clerk.

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

ATLANTA, MAY 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0322

JOHN MALPHARUS V. ROGER'S BRIDGE COMPANY, ET AL

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

70031

CV990120BR 258-98-4847

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 13 1999

*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.

Will. L. Mart, III

Court of Appeals
of the State of Georgia

ATLANTA, MAY 17, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0323

THE CADLE COMPANY V. NORTH ATLANTA TRADE CENTER, INC.

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

71031

98C56863

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 17 1999

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.

Will. L. Martin, III

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

ATLANTA, MAY 27, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0323

THE CADLE COMPANY V. NORTH ATLANTA TRADE CENTER, INC.

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

71-031
98C56863

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, MAY 17, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0324

THE CADLE COMPANY V. CITIZENS NATIONAL BANK

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

71032

98C62473

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 17 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 27, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0324

THE CADLE COMPANY V. CITIZENS NATIONAL BANK

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

71-032
98C62473

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 1999

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.

Will L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, MAY 11 1999

The Court of Appeals hereby passes the following order:

A99D0325. JAMES QUIRK v. MILTON E. NIX, JR., ET AL.

James Quirk filed this application for discretionary appeal from the trial court's order dismissing his appeal to the superior court of his request to have his criminal records modified pursuant to OCGA § 35-3-37. The superior court dismissed Quirk's OCGA § 35-3-37 (c) petition for failure to name the proper respondents, *i.e.*, the original agencies having custody or control of the disputed records; the order was entered on August 31, 1998. Quirk filed his application for discretionary appeal 247 days later on May 5, 1999.

An application for discretionary appeal must be filed within 30 days of the entry of the order appealed. OCGA § 5-6-35 (d). Because this application is untimely, this Court lacks jurisdiction to consider it. Fabe v. Floyd, 199 Ga. App. 322 (405 SE2d 265) (1991). To the extent Quirk relied on a motion for new trial to toll the time for filing his application, this Court notes that only a proper motion for new trial, one which challenges the determination of substantive facts by the factfinder, will toll the time for filing a notice of appeal pursuant to OCGA § 5-6-38 or an application pursuant to OCGA § 5-6-35 (d). See Bank South Mortgage v. Starr, 208 Ga. App. 19, 19-20 (429 SE2d 700) (1993). Quirk's motion for new trial was not such a motion. Accordingly, this application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

MAY 11 1999

Clerk's Office, Atlanta

*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.*

William L. Mat, III Clerk.

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

ATLANTA, MAY 27, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0325

JAMES QUIRK V. MILTON E. NIX, JR., ET AL

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

91-031
9853033

Court of Appeals of the State of Georgia
MAY 27 1999
Clerk's Office, Atlanta MAY 27 1999

*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.*

Will. L. Mat... Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JUN -3 1999

The Court of Appeals hereby passes the following order:

A99D0326. ZURICH INSURANCE COMPANY v. HARPER.

Applicant Zurich Insurance Company previously appealed an order denying a motion to set aside a default judgment pursuant to OCGA § 9-11-60. That appeal was dismissed for failure to comply with the discretionary appeal procedure. OCGA § 5-6-35 (a) (8) and (b). Applicant subsequently filed a motion to open default under OCGA § 9-11-55 (b). The trial court dismissed applicant's motion on the ground that "[t]he preceding proceedings and results are res judicata as to this present motion." Applicant seeks a discretionary appeal from this ruling.

Applicant notes that plaintiff's claims against codefendant Fleet Transport Company, Inc., remain pending in the trial court. Applicant argues that while it has the right to an appeal once final judgment is entered, "absent a discretionary appeal, Zurich may have to wait years until it has the right to file a direct appeal." However, immediate review under such circumstances may only be had if the more stringent requirements of the interlocutory appeal procedure are followed. OCGA § 5-6-34 (b). Because this

application has not been certified by the trial court for immediate review as required, it is hereby DISMISSED. Scruggs v. Ga. Dept. of Human Resources, 261 Ga. 587 (408 SE2d 103) (1991).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 3 1999

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.

Will. L. Martin, III Clerk.

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

ATLANTA, MAY 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0327

ROBERT W. HARRISON, JR. V. STATE REVENUE COMMISSIONER, GEORGIA
DEPARTMENT OF REVENUE

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

92032

98V161 264-20-2983

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 26 1999

*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.

Will. L. Martin, III

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

ATLANTA, MAY 27, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0328

FIELDALE FARMS CORPORATION, ET AL V. RAUL H. LOPEZ

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

94032

99CV191C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 1999

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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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, MAY 27, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0329
CITY OF WAYCROSS V. BENJAMIN M. HOLMES

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

98032

99V0076 254-92-3526

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

*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.*

Will. L. Mart, III

Clerk.

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

ATLANTA, JUNE 08, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0329

CITY OF WAYCROSS V. BENJAMIN M. HOLMES

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

98-032
99V0076

254-92-3526

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 8 1999

*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.*

Will. L. Martin, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 13 1999

The Court of Appeals hereby passes the following order:

A99D0330. Department of Transportation v. Georgia Television Company d/b/a WSB-TV\Channel 2

Department of Transportation filed this discretionary appeal of the trial court's final judgment in the referenced case. The Department seeks review of the trial court's order awarding Georgia Television Company attorneys' fees and expenses of litigation pursuant to OCGA § 13-6-11. However, the issue on appeal is directly appealable pursuant to OCGA § 5-6-34 (a) (1). Since the Department states in its application that it has also filed a timely notice of appeal, this application for discretionary appeal is ordered DISMISSED.

96-032

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 13 1999

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.

Will. L. Mart, III

Clerk.

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

ATLANTA, JUNE 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0331

FELTON HATCHER, ET AL V. JOHNSON CHEVROLET, BUICK CADILLAC, INC.

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

90032

981006

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

JUN - 2 1999

*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.*

Will L. Mat... [Signature]

Clerk.

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

ATLANTA, JUNE 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0332

SUE MERGENS, ET AL V. FULTON COUNTY, GEORGIA, ET AL

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

97032

1998CV00182

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN -2 1999

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.

Will. L. Martin, III

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

ATLANTA, MAY 28, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0333

COURTESY FORD V. ROBERT WEST

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

99032

99CV1192I 259-56-8580

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 28 1999

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.

Will. L. Martin, III

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

ATLANTA, JUNE 01, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0334
COUNSEL FOR AIRPORT DELIVERY SERVICES, INC. V. UNITED TRUCKERS
SERVICES, INC.

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

70032

96VS0117011D

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN - 1 1999

*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.*

Will L. Martz, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

JUN - 4 1999

The Court of Appeals hereby passes the following order:

A99D0335. DONNA MARIE SMITH v. THE STATE

Donna Smith seeks a discretionary appeal from the trial court's order entered March 30, 1999 which imposed a sentence of 24 months to serve in confinement followed by 3 years on probation. Smith filed her application on May 17, 1999. Appeals from final judgments, whether initiated by notice of direct appeal or by application, are required to be filed within 30 days of entry of the appealable judgment. OCGA § 5-6-38 (a), 5-6-35 (d). Because Smith failed to file a timely notice of appeal or application, this Court lacks jurisdiction in this matter, and this application is hereby ordered DISMISSED. Thompkins v. State, 157 Ga. App. 203 (276 SE2d 885) (1981); OCGA § 5-6-48 (b).
99-032

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN = 4 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JUNE 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0336

PATRICK HOWARD V. THE STATE

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

93032

SU99CR0330

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

JUN - 9 1999

*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.*

William L. Martin, III Clerk.

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

ATLANTA, JUNE 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0337

MARGARET HIATT V. HAROLD GOZA

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

92033

98CV49552

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN -3 1999

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.

Will. L. Martin, III

Clerk.

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

ATLANTA, JUNE 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0338

JIMMY T. MCKINLEY, Tax Commissioner of UPSON COUNTY, GEORGIA V.
CHERIE GREENE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94033

99V170

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN -9 1999

*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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 27, 1999

The Court of Appeals hereby passes the following order:

A99D0339. SHIRLEY KIMSEY v. TOWN OF MOUNTAIN CITY

Shirley Kimsey was convicted in the Mountain City Recorder's Court of a misdemeanor violation of the city's sewage disposal ordinance. She filed a petition for writ of certiorari in the superior court pursuant to OCGA § 5-4-1, et seq. The superior court dismissed her petition as being premature based on its finding that Kimsey's motion to vacate the judgment of the recorder's court and alternate motion for new trial were still pending in the recorder's court. Kimsey then filed this application for discretionary appeal pursuant to OCGA § 5-6-35 (a) (1). However, because the order does not appear to be the final judgment in the case, and because Kimsey did not otherwise follow the procedure required to seek an interlocutory appeal, her application is unauthorized and is therefore DISMISSED. OCGA § 5-6-34 (b); Scruggs v. Ga. Dept. of Human Resources, 261 Ga. 587 (408 SE2d 103) (1991); Cornelius v. Finley, 204 Ga. App. 299 (418 SE2d 815) (1992).

98-033

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 1999

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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.*

Will L. Mat, III

Clerk.

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

ATLANTA, JUNE 22, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0339

SHIRLEY KIMSEY V. TOWN OF MOUNTAIN CITY

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

98-033
99CV65W

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

JUN 22 1999

*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.

Will L. Martin, III

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

ATLANTA, JUNE 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0340

DAVID POYTHRESS, ET AL V. CATOOSA COUNTY, GEORGIA

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

96033

97CV00192

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN - 4 1999

*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.*

Will L. Martin, III Clerk.

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

ATLANTA, JUNE 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0341
CHRISTOPHER BOWEN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90033

97R38 97R149

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN -9 1999

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

Will. L. Martin, III Clerk.

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

ATLANTA, JUNE 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0342
CAGLE'S, INC., ET AL V. CAROL O. HARPER

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

97033

99CV4570 257-94-6441

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN -2 1999

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.

Will L. Mant, III Clerk.

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

ATLANTA, JUNE 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0343

CHARLENE HARPER V. THE STATE

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

99033

97R1219

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN -3 1999

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.

Will L. Martin, III Clerk.

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

ATLANTA, JUNE 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0344

ARTHUR D. BLANTON V. NEKOOSA PACKAGING CORP., ET AL

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

70033

99CV585 253-54-9309

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN -2 1999

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.

Will. L. Mart, III

Clerk.

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

ATLANTA, JUNE 24, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0344

ARTHUR D. BLANTON V. NEKOOSA PACKAGING CORP., ET AL

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

70-033
99CV585 253-54-9309

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

JUN 24 1999

*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.*

Will L. Martini, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JUN -2 1999

The Court of Appeals hereby passes the following order:

A99D0345. VAUGHAN v. ROARK.

The executor of the estate of Jon Michael Roark seeks an appeal to this court from an order declining to hold Roark's former wife in contempt of a final divorce decree. Respondent has filed a motion to dismiss because jurisdiction over divorce cases lies in the Supreme Court. We agree that appellate jurisdiction over this case lies in the Supreme Court and not this court. See, e.g., Harris v. U. S. Development Corp., 269 Ga. 659, 661 (502 SE2d 721) (1998). Nevertheless, respondent's motion to dismiss is without merit and is hereby DENIED. It is further ordered that the application be hereby TRANSFERRED to the Supreme Court for disposition pursuant to Rule 32 (c) of the Rules of the Court of Appeals.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN -2 1999

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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.*

Will. L. Martin Clerk.

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

ATLANTA, JUNE 04, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0346
AVONDALE MILL, ET AL V. RONNIE E. HALL

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

91033

99RCCV159 260-29-7264

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 4 1999

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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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JUNE 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0347

JACKIE D. KINLAW d/b/a QUICK CASH PAWN SHOPS V. BEDSOLE RENTAL d/b/a
PAYLESS RENTAL

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

93033

98A83164

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 22 1999

*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.

Will. L. Martin, III

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

ATLANTA, JUNE 07, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0348
ERMA ROGERS MCCOY V. GENEVA ANN SIMS, ET AL

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

92034

97VS129704H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN -7 1999

*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.

Will. L. Martin, III

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

ATLANTA, JUN - 8 1999

The Court of Appeals hereby passes the following order:

A99D0349. WILLIAM C. AKINS v. JENNIFER WHEELER

William Akins' application for discretionary appeal is from an order of the superior court granting Jennifer Wheeler's motion to enforce settlement in her action for paternity and equitable partition. The trial court specifically reserved ruling on a pending motion for attorney fees.

The Appellate Practice Act defines a final judgment as "where the case in no longer pending in the court below." OCGA § 5-6-34 (a); Black v. Sturdivant, 131 Ga. App. 698 (206 SE2d 526) (1974). Appeal of an order which is not a final judgment requires either an express determination under OCGA § 9-11-54 (b) or compliance with the interlocutory appeal procedures as set forth in OCGA § 5-6-34 (b). Scruggs v. Ga. Dept. of Human resources, 261 Ga. 587 (408 SE2d 103) (1991); King v. Bishop, 198 Ga. App. 622 (402 SE2d 307) (1991).

Because the instant case is still pending in the court below, and immediate review has not been authorized, this appeal is premature and is hereby dismissed.

94034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN - 8 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JUNE 25, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0350

NORRIS GRESHAM V. CITY OF ATLANTA, ET AL

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

98034

1998CV01066

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 25 1999

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.

Will. L. Martin, III

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

ATLANTA, JUNE 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0351

MARVIN DALE COLLINS V. KRISTA LEANN COLLINS

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

96034

9700054

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 11 1999

*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.*

William L. Martin, III

Clerk.

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

ATLANTA, JUNE 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0352
WILLIAM D. KINARD V. WORLDCOM, INC.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90034

96A078372

To: 94

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 22 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JUNE 23, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0353
JODY WATERS V. JOYCE CHILDERS WATERS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

97034

95OV211B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 23 1999

*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.

Will. L. Martin, III

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

ATLANTA, JUNE 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0354
DEBORAH W. PATE V. DERWARD PATE, JR.

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

99034

981579722 951599922

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will L. Martin, III

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

ATLANTA, JUNE 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0355
DEBORAH W. PATE V. DERWARD PATE, JR.

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

99035

981579722 951599922

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 1999

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hereto affixed the day and year last above written.*

Clerk.

Jill L. Mat, III

Court of Appeals of the State of Georgia

ATLANTA, JUN 30 1999

The Court of Appeals hereby passes the following order:

A99D0356. M & M DEVELOPMENT COMPANY ET AL v. WARREN A. MOORE.

The application for discretionary appeal filed by M & M Development Company and its insurer was not filed within thirty (30) days of the date of entry of judgment affirming the decision of the appellate division of the State Board of Workers' Compensation by operation of law. OCGA §§ 5-6-35 (d); 34-9-105 (d).

Therefore, the above-captioned application for discretionary appeal is dismissed. Compare Coronet Carpets v. Reynolds, 199 Ga. App. 383 (405 SE2d 103) (1991); Buschel v. Kysor/Warren, 213 Ga. App. 91, 93 (1) (444 SE2d 105) (1994).

70-034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 30 1999

*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.*

Will. L. Mart Clerk.

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

ATLANTA, JULY 20, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0356

M & M DEVELOPMENT COMPANY, ET AL V. WARREN A. MOORE

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

70-034
259-64-1050

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 1999

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.

Will. L. Mart, III

Court of Appeals of the State of Georgia

ATLANTA, JUN 11 1999

The Court of Appeals hereby passes the following order:

A99D0357. Louis J. Poetter v. The State

Louis J. Poetter filed this discretionary application seeking review of the trial court's order transferring the supervision of his probation from Gwinnett County to Douglas County. However, the issue presented by this case does not fit within any of the enumerated cases requiring an application for discretionary review. OCGA § 5-6-35 (a). Thus, this case is directly appealable. Poetter has filed a timely notice of appeal with the Superior Court of Douglas County. Accordingly, this application unnecessary and is ordered DISMISSED.

71.-034

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 11 1999

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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.*

William L. Martin, III Clerk.

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

ATLANTA, JUN 10 1999

The Court of Appeals hereby passes the following order:

A99D0358. MICHAEL GAY BONNER v. DENISE WARD BONNER

Michael Bonner filed this application for discretionary appeal seeking review of the trial court's May 6, 1999 order denying his motion to dismiss Denise Bonner's petition for divorce.

Under the state constitution, the Supreme Court has exclusive jurisdiction over all divorce and alimony cases. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6). See Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979). Accordingly, this case is ordered TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 10 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will. L. Martin, III Clerk.

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

ATLANTA, JULY 01, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0359
PHUONG KIM NGUYEN V. RYAN TURNER LISTER

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

93034

97CV17403

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL - 1 1999

*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.

Will. L. Mart, III

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

ATLANTA, JUNE 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0360
TOMMY LEE KENDRICK V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92035

98CR013056

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 30 1999

*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.*

Will. L. Martin, III

Clerk.

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

ATLANTA, JUNE 22, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0361
DOUGLAS E. HOWARD V. ALISHA PETERS

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

94035

9812452

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 22 1999*

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, JUN 29 1999

The Court of Appeals hereby passes the following order:

A99D0362. MARTIN, et al. v. WYATT, et al.

Lithford Robert Martin and Virginia Martin filed a personal injury action in 1996. That action was voluntarily dismissed in March 1997. The Martins filed a renewal action, which was scheduled for trial on February 1, 1999. When plaintiff's counsel failed to appear at trial, the trial court intended to dismiss the renewal action for want of prosecution. However, the order was instead entered in the Martin's original action. On May 6, 1999, the trial court entered two orders. One order denied the Martins' separate motions for new trial and for reconsideration of the dismissal order. The other order granted the defendants' motion to correct the dismissal order to reflect the case number for the Martins' renewal action rather than the original action previously dismissed in 1997. It is from these orders that the Martins seek an appeal.

We agree with respondents that the Martins' application is untimely from the original dismissal order and that the order entered on the Martin's post-judgment motions is not otherwise appealable. See Blackwell v. Sutton, 261 Ga. 284 (404 SE2d 114)

(1991). However, it appears that no final judgment was effectively entered in the renewal action until the trial court entered its corrective order on May 6, 1999. Since the dismissal of a personal injury action is a directly appealable judgment and the trial court's corrective order of May 6 was necessary to effect that dismissal as a matter of record, the Martins' application is hereby GRANTED as to the corrective order under OCGA § 5-6-35 (j).

The Martins shall have ten days from the date of this order to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this court.

98035

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 29 1999

*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 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0306
FRANKLIN DAVID ELROD V. THE STATE

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

98030
91R223

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* MAY 12 1999

*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.*

Will L. Martin, III

Clerk.

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

ATLANTA,

JULY

02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0363
ROGER C. DAY V. WAYNE HALL, ET AL

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

96035

99NH4

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL - 2 1999

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the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
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Will. L. Martin, III

Clerk.

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

ATLANTA, JULY 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0364
FOOD LION, ET AL V. WILLIAM T. PROCTOR

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

90035

SU99CV0226S 270-36-8218

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL -2 1999

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

Clerk.

William L. Martin, III

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

ATLANTA, JUNE 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0365

MICHAEL JON KELL, M.D. V. GEORGIA COMPOSITE STATE BOARD OF MEDICAL
EXAMINERS

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

97035

E70827

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 24 1999

*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
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Will. L. Mart, III

Clerk.

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

ATLANTA, JULY 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0366

BERKLEY INSURANCE COMPANY OF THE CAROLINAS V. CARL MILLER, JR., ET AL

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

70035

99RCCV274 252-29-8827

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL - 2 1999

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.

Will. L. Martin, III

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

ATLANTA, JUNE 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0367

HAL GIBSON V. SCOTT SUTTON

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71035

98CV3012

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 1999

*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.*

Will. L. Mart, III

Clerk.

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

ATLANTA, JULY 08, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0368

GLORIA GLASS V. NATHAN F. GLOVER, SR., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91035

97CV1191

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL - 8 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JULY 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0369

JACQUELINE ZACK-RADKE V. MARK CHARLES RADKE

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

93035

E57582

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 13 1999

*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.

Will. L. Martin, III

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

ATLANTA, JUNE 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0370
GARY TODD WRIGHT V. THE STATE

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

92036

95R065

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 30 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0371
DIMPLE B. THOMAS V. LAURA MAESTAS

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

94036

95A14728

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 16 1999*

*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.

Will. L. Martin, III

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

ATLANTA, JULY 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0372

RHONDA WEISS a/k/a RHONDA MINDER V. MARY ANN VARNADORE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

98036

9601824

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 16 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 08, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0373

CONTINENTAL GRAIN CO., ET AL V. BILLY R. PARKS

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

96036

99CV092HS 257-52-2983

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL - 8 1999

*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.*

Will. L. Martin, III

Clerk.

Court of Appeals of the State of Georgia

ATLANTA, JUL -2 1999

The Court of Appeals hereby passes the following order:

A99D0374. Hooper v. Clemons

Dennis Russell Hooper filed this discretionary application seeking review of the trial court's denial of his petition for mandamus under the Georgia Open Records Act. The order Hooper seeks to appeal was entered on April 5, 1999. Hooper filed this application for discretionary appeal on June 18, 1999. Applications for discretionary appeal must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Hooper's application was untimely as it was filed 74 days after entry of the order complained of. Hooper's failure to file a timely application deprives this Court of jurisdiction to consider his application; accordingly, the application is ordered DISMISSED.

90-036

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL = 2 1999

*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.*

Will L. Mart,  Clerk.

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

ATLANTA, JUN 23 1999

The Court of Appeals hereby passes the following order:

A99D0375. MARK GRIFFIN v. THE STATE
A99D0376. MARK GRIFFIN v. THE STATE

Mark Griffin, represented by two different attorneys, filed these applications seeking to appeal the trial court's order denying his motion for resentencing, which motion was filed after the term of court in which he was originally sentenced. However, an appeal of an order denying a motion for resentencing does not come within any of the enumerated provisions contained in the discretionary appeal statute. OCGA § 5-6-35 (a). See Shaw v. State, 233 Ga. App. 232 (504 SE2d 18) (1998). Further, the case below is final, and thus the interlocutory appeal requirements are not mandated. OCGA § 5-6-34 (b). Accordingly, there being no basis in OCGA § 5-6-35 (a) for requiring an application for appeal, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

Mark Griffin shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this Court.

97-036
97-037

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 23 1999

*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.*

William L. Martin, III Clerk.

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

ATLANTA, JUN 23 1999

The Court of Appeals hereby passes the following order:

A99D0375. MARK GRIFFIN v. THE STATE
A99D0376. MARK GRIFFIN v. THE STATE

Mark Griffin, represented by two different attorneys, filed these applications seeking to appeal the trial court's order denying his motion for resentencing, which motion was filed after the term of court in which he was originally sentenced. However, an appeal of an order denying a motion for resentencing does not come within any of the enumerated provisions contained in the discretionary appeal statute. OCGA § 5-6-35 (a). See Shaw v. State, 233 Ga. App. 232 (504 SE2d 18) (1998). Further, the case below is final, and thus the interlocutory appeal requirements are not mandated. OCGA § 5-6-34 (b). Accordingly, there being no basis in OCGA § 5-6-35 (a) for requiring an application for appeal, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

Mark Griffin shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this Court.

97-036
97-037

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 23 1999

*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.*

Will. L. Mart, III Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

7-16-99

The Court of Appeals hereby passes the following order:

**A99D0377. GEORGIA MANUFACTURED HOUSING ASSOCIATION, INC., et al. v.
NEWTON COUNTY, GEORGIA, et al.**

Applicants seek an appeal from a final judgment of the superior court in a case wherein applicants attacked the constitutionality of certain amendments to the Newton County zoning ordinance adopted in 1994. The superior court ruled, among other things, that none of the plaintiffs preserved any constitutional objection to the ordinance. Nevertheless, the court chose to rule sua sponte on the plaintiffs' challenge to the ordinance, finding the ordinance constitutional on its face. Applicants' arguments to this court do include a challenge to the substance of the superior court's ruling on the constitutionality of the ordinance.

Because a constitutional challenge to the Newton County zoning ordinance was made and ruled on, and because that ruling has been challenged on its merits in applicants' submission, we agree with respondents that this application falls within the Supreme Court's exclusive appellate jurisdiction under Ga. Const. of 1983, Art. VI, § VI, ¶ II (1). We specifically note that the superior court's

decision on the merits of the applicants' constitutional challenge is by no means ancillary to the procedural issues addressed in the same order. On the contrary, if the superior court acted properly and otherwise reached the correct conclusion in addressing the merits of the plaintiffs' complaint sua sponte, then the plaintiffs' procedural arguments are essentially moot.

For the foregoing reasons, the above styled application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 16 1999

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.

Will. L. Martin, III

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

ATLANTA, JULY 14, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0378
LOUISE PINNELL V. BOB KIGHT, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70036
99V5164

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 1999

*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.*

Will. L. Mant,  Clerk.

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

ATLANTA, JULY 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0380
ROBERT A. WHITNEY, SR. V. BOOMERS, INC.

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

91036

96A54293

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 16 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 23, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0381

MICHAEL MCDUFFIE V. BANK ONE, ARIZONA, NA, f/k/a VALLEY NATIONAL
FINANCIAL SERVICES

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

93036

98C54362

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 23 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, July 14, 1999

The Court of Appeals hereby passes the following order:

**A99D0382. ROBERT LEE WASHINGTON, Sr. v. MICHAEL L. THURMOND and
THE MORROW COMPANY.**

Robert Lee Washington filed this pro se application for discretionary appeal from the decision of the Superior Court of Sumter County affirming the decision of the Board of Review of the Georgia Department of Labor. Washington did not include in his application a file-stamped copy of the order he seeks to appeal, as required by Georgia Court of Appeals Rule 32 (b). By order dated June 24, 1999, this Court directed Washington to supplement the application with a stamped "filed" copy of the order within ten days of June 24, that is, by July 6, 1999. The June 24 order further provided that if Washington failed to file the order within ten days, his application would be dismissed. As of Thursday, July 8, 1999, no stamped "filed" copy of the order he seeks to appeal has been physically received by the Clerk of the Court of Appeals of Georgia. The Rules of this Court apply to pro se parties. Georgia Court of Appeals Rule 1 (d). Failure to comply with a direct order of this Court subjects the appeal to dismissal. Georgia Court of Appeals Rule 7. We conclude from Washington's failure to comply with this Court's order of June 24, 1999, that he has abandoned this appeal. Accordingly, the application in Case Number A99D0382 is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 1999

*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.*

Will. L. Martin, III Clerk.

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

ATLANTA, JULY 30, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0382

ROBERT LEE WASHINGTON, SR. V. MICHAEL L. THURMOND, ET AL

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

92-037
99V114

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 30 1999

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.

Will. L. Martin, III

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

ATLANTA, JULY 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0383
PIONEER CREDIT COMPANY V. BONITA HICKS

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

94037
96CV188

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 16 1999*

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.

Will L. Mont, III

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

ATLANTA, AUGUST 04, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0383

PIONEER CREDIT COMPANY V. BONITA HICKS

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

94-037
96CV188

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 4 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0384
WAYCROSS MOLDED PRODUCTS, INC. V. RAYMOND MCKELVIN

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

98037

99V02770 259-88-9131

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 12 1999

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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0385. WILLIAM LARRY WEAVER v. NORTH GEORGIA NEWS, ET

This application for discretionary appeal was not deemed filed in this court until Jun 25, 1999, 39 days after entry of the order granting defendants' motion for summary judgment. An application for discretionary appeal must be filed within 30 days of the order complained of OCGA § 5-6-35 (d), and must include payment of the statutory filing fee or proper affidavit of indigence before it may be accepted as filed. OCGA § 5-6-4. Since Weaver failed to satisfy the absolute requirements of the discretionary appeal procedure within 30 days as required, his application is dismissed for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 1999

*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.*

Will. L. Martini, III Clerk.

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

ATLANTA, AUGUST 13, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0385

WILLIAM LARRY WEAVER V. NORTH GEORGIA NEWS ET AL.

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

71-037
99CV77DB

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 13 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 20, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0386
FIRST AMERICAN HEALTH CENTER, ET AL V. AMELIA BOND

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

96037

99CV5015 260-19-5065

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 1999

*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.

Will L. Mart

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

ATLANTA, AUGUST 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0387
BAKER BROTHERS, ET AL V. DON COX

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

90037

99CV6131 253-84-3968

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 2 1999

*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.

Will. L. Mat...

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

ATLANTA, AUGUST 24, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0387

BAKER BROTHERS, ET AL V. DON COX

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

90-037
99CV6131 253-84-3968

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 1999

*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.

Will. L. Marti, III

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

ATLANTA, JULY 28, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0388

INTERNATIONAL DIAMOND WHOLESALE, INC. V. B. KAYE LEWIS

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

99037

97A385084

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 28 1999

*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.

Will. L. Mart, III

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

ATLANTA, JULY 20, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0389

DEWAYNE CARTER V. THE STATE

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

70037

99CV471

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 1999

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.

Will. Z. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0390. REVIS v. REVIS.

Jimmy Lee Revis seeks an appeal from an order dismissing his motion for modification of support and visitation established in the parties' final divorce decree and also finding him in contempt of the support provisions of the final divorce decree. Revis contends that the finding of contempt is based on a misinterpretation of the settlement agreement incorporated into the final decree. A contempt action based on the failure to comply with the child support provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979); see also Brown v. King, 266 Ga. 890 (472 SE2d 65) (1996); Smith v. Smith, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); Hines v. Hines, 237 Ga. 755 (1) (229 SE2d 744) (1976); compare Ashburn v. Baker, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction over appeal of contempt action involving child custody issues, but not issues relating to divorce and alimony, is within the Court of Appeals, even though such action involves an action for contempt for violation of a divorce decree). Accordingly, the application is hereby TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 29 1999

*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.*

Will. L. M...^{Clerk.}

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0391. BROWN v. BROWN.

Plaintiff Sharon D. Brown filed an action for divorce against defendant Billy W. Brown. As a part of the divorce action, plaintiff named defendant Billy W. Brown's mother, defendant Jean D. Brown, as holder of title to real property owned by plaintiff and defendant. Plaintiff prayed for an equitable portion of that property. Jean D. Brown did not answer the complaint within 45 days and a default judgment was entered against her prior to trial. The judgment established that the property at issue was held by Jean D. Brown in trust for the benefit of the plaintiff and defendant Billy W. Brown.

Jean D. Brown now seeks an appeal from the final judgment of divorce entered between the parties, arguing that the default provisions of OCGA § 9-11-55 do not apply in divorce cases. Because applicant seeks an appeal from a final judgment entered in a divorce case, because Brown's proposed enumeration of error is peculiar to divorce cases, and because the case otherwise involves a challenge to legal title to land, the application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (1) and (6).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 27 1999

*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.*

Will. L. Mat, ^{Clerk.} *III*

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

ATLANTA,

AUGUST

02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0392

LOCKHEED AERONAUTICAL SYSTEMS CO., ET AL V. KEITH A. HAMBY

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

92038

991317318

256-98-7131

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 2 1999

*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.

Will L. Mat, III

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

ATLANTA, AUGUST 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0393

LOCKHEED AERONAUTICAL SYSTEMS CO., ET AL V. PEGGY J. LYLE

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

94038

9910186299 255-58-7436

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG -9 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0394

SUMMERTOWN HOMEOWNERS ASSOCIATION, INC., ET AL V. GWINNETT COUNTY,
ET AL

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

98038

98A48052

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 3 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0395

WILLIAM JENNINGS BRYAN V. FULTON COUNTY PERSONNEL BOARD, ET AL

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

96038

E71048

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 3 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 25, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0395

WILLIAM JENNINGS BRYAN V. FULTON COUNTY PERSONNEL BOARD, ET AL

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

96-038
E71048

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 25 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0396. HOLDER v. MEADOWS

Defendant Marion Meadows Holder seeks to appeal an order granting the plaintiff's petition for change of custody. However, both parties confirm that Holder's counterclaim remains pending for decision. Since the judgment for which an appeal is sought not the final judgment in the case and Holder has otherwise failed to follow the procedure for seeking an interlocutory appeal, her application is hereby DISMISSED as premature. Gray v. Springs, 224 Ga. App. 427 (481 SE2d 3) (1997).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 4 1999

*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.*

Will. L. Mart, ^{Clerk.} *III*

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

ATLANTA, AUGUST 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0397

WILLIAM C. AKINS V. JENNIFER L. WHEELER

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

97038

9739103

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 12 1999

*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.

Will. L. Martin, III

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

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0398. Carol Ann Vasko Simpson v. Donald Simpson

Carol Ann Vasko Simpson filed this application for discretionary appeal on July 13, 1999 seeking review of an order of the trial court in a child custody matter. The order Simpson seeks to appeal was entered by the trial court on May 26, 1999. An application for discretionary appeal must be filed within 30 days of entry of the order complained of. OCGA § 5-6-35 (d). In this case, Simpson did not file her application until July 13, 1999, 48 days after entry of the order she seeks to appeal. Thus, Simpson's application is untimely and this Court lacks jurisdiction to consider the application. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 27 1999

*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.*

William L. Mart Clerk 

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

ATLANTA, AUGUST 12, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0398

CAROL VASKO SIMPSON V. DONALD SIMPSON

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

99-038
971055035

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 12 1999

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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.

Will. L. Martin, III

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

ATLANTA, AUGUST 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0399

TRISHA [SIC] NICOLE LINDSEY V. MUNICIPALITY OF TIFTON, ET AL

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

70038

98CV544

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 3 1999

*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.

Will. L. Mart

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

ATLANTA, AUGUST 09, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0400

RICHARD ALLEN STEWART V. DEBORAH ANN STEWART

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

71038

99CV4798

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 9 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0401

AIRLINE INN, INC., ET AL V. EMORY UNIVERSITY

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

91038

97CV144774

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 16 1999

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.

Will. L. Mart, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0402. DAVID L. ROLACK, JR. v. STATE OF GEORGIA

Raburn Bonding Co. filed this discretionary application from the trial court's order denying its motion for return of bond. Raburn Bonding filed this application pursuant to OCGA § 5-6-35 (a) (6) on the ground that it was an appeal from an action for damages in which the judgment was \$10,000 or less. However, a bondsman's appeal from an order denying a motion for return of a forfeited bond in a criminal case is not a case constituting an "action for damages" as contemplated by OCGA § 35-6-35 (a) (6). The underlying action on the bond by the State is more akin to an in rem action. Compare Kelly v. Pierce Roofing Co., 220 Ga. App. 391 (469 SE2d 469) (1996) (Materialman's action on lien against real property was not action for damages necessitating discretionary appeal, even though property owners chose to post bond to satisfy any judgment on lien.) Accordingly, the order appealed from is a final judgment directly appealable under OCGA § 5-6-34 (a) (1), and an application for discretionary appeal was not necessary. This application is thus GRANTED pursuant to OCGA § 5-6-35 (j). Applicant shall have ten days from the date of this order to file its notice of appeal

with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 4 1999

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.

Will. L. Martin, III

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

ATLANTA, AUGUST 11, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0403

BLECKLEY COUNTY BOARD OF EDUCATION AND/OR SEDGWICK, INC. V. WILLIAM JO
E DURHAM

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

92039

99CV9592 245948243

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 11 1999

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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.

Will. L. Martin, III

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

ATLANTA, AUGUST 18, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0404
ROBERT H. RENFROE V. CITY OF ATLANTA

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

94039

1999CV08396 259984955

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 18 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0405
DENNIS HOOPER V. BRUCE HARRIS, ET AL

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

98039

97CV1510

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 16 1999

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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.*

Will L. Martin, III
Clerk.

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

ATLANTA, SEPTEMBER 09, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0405

DENNIS HOOPER V. BRUCE HARRIS, ET AL

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

98-039
97CV1510

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP -9 1999

*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.

Will L. Martin, III

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

ATLANTA, AUGUST 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0406

GEORGIA SELF-INSURERS GUARANTY TRUST FUND V. NANCY SANDERS

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

96039

99CV494 253603551

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 16 1999

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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.

Will L. Martin, III

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

ATLANTA, AUGUST 27, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0406

GEORGIA SELF-INSURERS GUARANTY TRUST FUND V. NANCY SANDERS

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

96-039
99CV494 253603551

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 27 1999

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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.

Will. L. Mart, III

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

ATLANTA, AUGUST 16, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0407

MELVIN K. LIGON, ET AL V. KEITH WALKER, ADMINSTRATOR OF THE ESTATE
OF JACK WALKER

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

90039

98CV636HS

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 16 1999

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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.

Will. L. Mart, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0408. Frederick Brown v. Lewis Massey

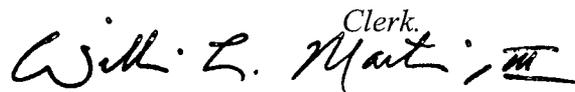
Applicant Frederick Brown filed this discretionary application following the trial court's grant of an out of time discretionary appeal. However, the trial court lacked authority to grant an extension of time for filing an application for discretionary appeal. Rosenstein v. Jenkins, 166 Ga. App. 385 (304 SE2d 740) (1983). Thus, this Court lacks jurisdiction to consider Brown's application as it is untimely from the date of the entry of the order he seeks to appeal. OCGA § 5-6-35 (d). Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG - 2 1999

*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.*

Will. L. Mart, ^{Clerk.} 

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

ATLANTA, AUGUST 13, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0409
NITA PERRIN V. SCOTTIE STANSELL, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99039

97HV3095

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 13 1999

*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.

Will. L. Martin, III

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

ATLANTA, JULY 30, 1999

The Honorable Court of Appeals met pursuant to adjournment.

The Following order was passed:

Case No. A99D0410

DAVID EARL BRITT V. THE STATE.

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

70-039
98D28093

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 30 1999

*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.

Will L. Mat, III

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

ATLANTA, August 10, 1999

The Honorable Court of Appeals hereby passes the following order:

A99D0411 CITY OF UNION CITY v. JANICE ARLENE WILCOXSON

Upon consideration of the motion for withdrawal, it is hereby ordered that said motion be GRANTED.

71-039

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 06, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0412

WAYNE EMERSON LEAVITT V. DAVID W. LEAVITT ET AL

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

91039

921185028

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG - 6 1999

*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.

Will. L. Mart, III

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

ATLANTA, AUGUST 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0413
MOZELLA BRADLEY V. KEY CAPITAL CORP.

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

93039

167247

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 24 1999

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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.

Will. L. Martin, III

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

ATLANTA, AUGUST 23, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0414
JAMES D. WALKER V. BILLIE G. BOUTWELL

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

92040
99CV21

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 23 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0415. Randy D. Dudley v. Tammie G. Dudley

Randy D. Dudley filed this discretionary application seeking review from an order of the trial court finding him in wilful contempt of his obligations under the trial court's final judgment and decree of divorce. Dudley contends the finding of contempt was in error as the child support provisions in the final decree were contrary to law. Dudley has pending with the trial court a motion to set aside the child support provisions contained in the final judgment and decree of divorce. A contempt action based on the failure to comply with the child support provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979); see also Brown v. King, 266 Ga. 890 (472 SE2d 65) (1996); Smith v. Smith, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); Hines v. Hines, 237 Ga. 755 (1) (229 SE2d 744) (1976); compare Ashburn v. Baker, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction in contempt action involving child custody

issues, but not issues relating to divorce and alimony, is within the Court of Appeals).

Accordingly, this application is ordered TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 11 1999

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.

Will. L. Mart, III

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

ATLANTA, AUGUST 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0416

ROBIN WATKINS V. PICKENS COUNTY BOARD OF EDUCATION

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

98040

1999CV103

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 1999

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Clerk.

Will. L. Martin, III

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

ATLANTA, AUGUST 20, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0417

JOHN SMILEY V. EUNICE HULL

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

96040

CV980948KA

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 20 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0418

COMPOSITE STATE BOARD OF MEDICAL EXAMINERS V. RALPH D'AURIA, M.D.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

90040

E47535

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 26 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 12, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0419

BLAIR A. FULMER V. DANNY W. POWELL, ET AL.

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

97040

98C55232

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 12 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0420

PAULA MARIE FRENCH V. JEFFREY STEVEN FRENCH

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

99040

97CV957110

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 1999

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.

Will. L. Martin, III

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

ATLANTA, AUGUST 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0421
JOSHUA NATHAN BLISS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70040

96B27562

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, AUG 30 1999

The Court of Appeals hereby passes the following order:

A99D0422. Stamps v. Johnson

Allen and Regina Stamps filed this discretionary application seeking review of the trial court's order which dismissed their complaint against Don W. Johnson and The Johnson Law Firm, P.C. However, because the trial court's order constituted a final judgment for the defendants, a direct appeal was proper instead of the discretionary appeal procedures. Accordingly, there being no basis in OCGA § 5-6-35 (a) requiring an application for appeal, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

The Stamps shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the State Court is directed to include a copy of this order in the appeal record transmitted to this Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 30 1999

*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.
Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, NOV - 4 1999

The Court of Appeals hereby passes the following order:

A99D0423. CRAIG BUSSEY v. THE STATE.

Craig Bussey filed an application for discretionary appeal, which this Court denied on August 25, 1999. He also filed a motion to amend and supplement his application for discretionary appeal, which this Court also denied. Bussey subsequently filed a motion for extension of time to file a motion for reconsideration. This Court granted the motion on September 15, 1999, by order giving Bussey until September 27, 1999, to file his motion for reconsideration. Bussey then filed a motion for reconsideration from the denial of his application for discretionary appeal, as well as a motion for reconsideration of the denial of his motion to amend and supplement his application. These motions, however, were not filed in this Court until September 28, 1999, the day after the motions for reconsideration were due. Accordingly, both of Bussey's motions for reconsideration are hereby DISMISSED as untimely.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 4 1999

*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.*

Will. L. Mont Clerk.

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

ATLANTA, AUGUST 26, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0424

JOHN H. GRAVES V. SUSAN D. GRAVES

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93040

DR970900BA

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 26 1999

*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.

Will. L. Martin, III

Court of Appeals of the State of Georgia

ATLANTA, August 23, 1999

The Court of Appeals hereby passes the following order:

A99D0425. JEFFREY L. TOMLINSON v. HEATHER TOMLINSON.

Jeffrey L. Tomlinson, the plaintiff in this divorce action, filed this application for discretionary appeal seeking review of the superior court's dismissal of the action based on a lack of jurisdiction.

Under the state constitution, the Supreme Court has exclusive jurisdiction over all divorce and alimony cases. Ga. Const. of 1983, Art VI, Sec VI, Par. III (6). See Griffin v. Griffin, 243 Ga. 149 (253 SE2d 80) (1979). Accordingly, this case is ordered TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 23 1999

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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.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 02, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0426

JIMMY LEE JONES V. THE STATE

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

94041

95CR005258

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta SEP -2 1999

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.

Will. L. Mart

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A99D0427. Jones v. Georgia Board of Pardons and Paroles

Jimmy Lee Jones filed this discretionary appeal seeking review of the trial court's order which denied the filing of Jones' petition for mandamus for lack of legal sufficiency for the issuance of the writ. However, an appeal in a mandamus case is required by statute to be directed to the Supreme Court for disposition. OCGA § 9-6-28; see Ga. Const. of 1983, Art. VI, § VI, ¶ III (5). Accordingly, this appeal is ordered TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 17 1999

*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.*

Will. L. Mait ^{Clerk} *, III*

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

ATLANTA, SEPTEMBER 01, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0428
SCHLANDA HAMMOND V. CHARLES B. LEE, ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of State Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95041

96C33301

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP - 1 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0429

PETER MOISTER V. KATHRYN HENDRICKS, ET AL

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

98041

E71559

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 30 1999

*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.

Will. L. Martin, III

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

ATLANTA, AUGUST 24, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0430

LIBERTY MUTUAL INSURANCE COMPANY, ET AL V. JAMES C. ANGLIN, ET AL

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

96041

SU99CV1734 253-74-7341

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 1999

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.

Will L. Martin, III

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

ATLANTA, AUGUST 19, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0431

JOHNNIE C. PRATER, SR. V. SHIRLEY BRINSON

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

90041

97CV17456 S99D1516

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 19 1999

*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.

Will. L. Mart, III

Court of Appeals of the State of Georgia

ATLANTA, AUG 25 1999

The Court of Appeals hereby passes the following order:

A99D0432. TINA MARIE KERR v. JASON KERR.

Upon consideration of the application for discretionary appeal, it is ordered that the application be hereby DENIED.

The order in this case, changing physical custody of the parties' minor child from the mother to the father, was entered August 6, 1999. The applicant filed her application for discretionary appeal that same day. On August 9, 1999, the trial court entered an Ex Parte Order, which ordered the sheriff to take possession of the parties' minor child from the mother and to turn the child over to the father, Jason Kerr. The applicant has filed an emergency motion pursuant to Court of Appeals Rule 40 (b), contending that the trial court's Ex Parte Order violated OCGA § 5-6-35 (h). See also Walker v. Walker, 239 Ga. 175 (236 SE2d 263) (1977). The applicant accordingly moves this Court to issue an order staying the Ex Parte Order pending the decision on the mother's application for discretionary appeal. Our disposition of this case, however, renders this issue moot. Accordingly, the applicant's emergency motion under Rule 40 (b) is hereby DENIED as moot.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 25 1999

*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.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 03, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0433
BANKHEAD ENTERPRISES, INC., ET AL V. REGIONAL M. LINDLEY

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

99041

99CV0797 252-21-7158

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP - 3 1999

*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.

Will. L. Mart, III

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

ATLANTA, AUGUST 30, 1999

The Court of Appeals hereby passes the following order:

APPLICATION NO. A99D0434

ATLANTA JOURNAL-CONSTITUTION, ET AL V. PHYLLIS HODGES

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

70041

991342534 232-72-1232

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 30 1999

*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.

Will. L. Martin, III