

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

**ATLANTA,**

FEB 14 2001

*The Court of Appeals hereby passes the following order:*

**A01D0200. WAYNE THOMAS NUTT v. CHERYL DOWDY NUTT.**

Wayne Thomas Nutt seeks appellate review of the denial of his motion for new trial in this divorce case. However, the Supreme Court has exclusive jurisdiction over appeals in divorce cases. Ga. Const. of 1983, Art. VI, Sec VI, Par. III (6). Therefore, this case is ordered TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* FEB 14 2001

*I certify that the above is a true extract from  
the minutes of 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. Mc... m*

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

ATLANTA, MARCH 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0201  
DOYLE ETHRIDGE, A TRUSTEE OF DESIGNATED FUNDS V. REED CREEK BAPTIST  
CHURCH, INC.

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

92017

00HV197H

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR - 8 2001

*I certify that the above is a true extract from  
the minutes of 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,            FEBRUARY 27, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0202  
MICHAEL MURPH V. MAYNARD FIXTURECRAFT, 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.

71017

00V372            255-45-8706

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta    FEB 27 2001*

*I certify that the above is a true extract from  
the minutes of 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, Jr.*

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

ATLANTA, MARCH 05, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0203  
GORDON DOUGLAS WARD, ET AL V. BETTY PATTERSON WARD

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.

91017

98CA22775

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta MAR -5 2001*

*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.*

*William L. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA, FEB. 15 2001

*The Court of Appeals hereby passes the following order:*

**A01D0204. HARRY E. RIMSNIDER v. SHEILA RIMSNIDER.**

Harry E. Rimsnider, acting pro se, has filed an application seeking discretionary appeal of the order of the superior court modifying the child custody and child support provisions of a Final Divorce Decree.

On July 25, 1997, a final decree of divorce was entered as to Harry E. Rimsnider and Sheila Rimsnider. Pursuant to an agreement of the parties, the final decree awarded joint legal and physical custody of the minor children to the parties. All questions of child support were held in abeyance pending the future possibility that one parent would be awarded sole physical custody of one or more of the two minor children.

On April 5, 1999, Sheila Rimsnider filed a complaint for modification and contempt seeking primary physical custody of the minor children, periodic child support payments, and medical coverage insurance for the children. She also sought to hold Harry Rimsnider in contempt of the final divorce decree for failing to pay for the children's private school expenses.

On July 9, 1999, a temporary consent order was entered regarding the issue of child support. Pursuant to this order, Harry Rimsnider was required to pay \$75.00 per week for the support of the two minor children. On November 19, 1999, another temporary consent order was entered. Pursuant to this order, Harry Rimsnider was to pay \$250.00 per month as child support and certain private school expenses of the children. The order also provided that Sheila Rimsnider was to provide medical insurance for the minor children and the parties would share equally all of the children's medical expenses that were not covered by medical insurance. The order further specified that all items in the Final Judgment and Decree not directly affected by the temporary consent order would remain in full force and effect.

On January 4, 2001, a final order was entered modifying the child custody and child support provisions of the Final Divorce

Decree. Harry Rimsnider subsequently filed a timely application seeking discretionary appeal of this order.

Because this contempt and modification proceeding is based on the failure to comply with provisions originally contained in or subsequently incorporated into a final divorce decree, it 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, Par. III (6); see Ashworth v. Busby, 272 Ga. 228 (526 SE2d 570) (2000); Cannon v. Cannon, 270 Ga. 640 (514 SE2d 204) (1999); Brown v. Brown, 269 Ga. 724 (506 SE2d 108) (1998); Bardugon v. Bardugon, 268 Ga. 361 (489 SE2d 832) (1997); Griffin v. Griffin, 243 Ga. 149 (254 SE2d 80) (1979); compare Eickhoff v. Eickhoff, 263 Ga. 498 (435 SE2d 914) (1993) (agreement not incorporated into judgment and decree of divorce) with Crotty v. Crotty, 219 Ga. App. 408 (1) (465 SE2d 517) (1995). Accordingly, this case is hereby TRANSFERRED to the Supreme Court of Georgia for disposition.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      FEB 15 2001

*I certify that the above is a true extract from  
the minutes of 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*

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

ATLANTA,            FEBRUARY 22, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0205  
LORI JEAN LEWIS V. FREDDIE STUART LEWIS

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

98V0144

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta        FEB 22 2001*

*I certify that the above is a true extract from  
the minutes of 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, MAR 14 2001

*The Court of Appeals hereby passes the following order:*

**A01D0206. CITY OF MARIETTA et al. v. LODGE RESOURCES, INC.**

Relying on a consent order granting them an out-of-time appeal, the City of Marietta and its mayor and council members seek discretionary review of an order granting respondent's request for writ of certiorari in a tax dispute. We cannot consider the petitioners' submission because the superior court's grant of an out-of-time appeal is insufficient to authorize the filing of an otherwise untimely application for discretionary appeal. Department of Offender Rehabilitation v. Meeks, 165 Ga. App. 269 (299 SE2d 757) (1983). Moreover, an out-of-time appeal is not an available remedy in civil cases. Woodall v. Woodall, 248 Ga. 172 (281 SE2d 619) (1981). This is true even where, as here, the applicants claim that they did not receive notification of the trial court's order. See generally Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc., 167 Ga. App. 257 (306 SE2d 22) (1983). For these reasons, the above-styled application for discretionary appeal is hereby DISMISSED as untimely filed.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 14 2001

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

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

*W. L. Martin, Clerk*

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

ATLANTA, MARCH 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0207

ALFONZA MCKEEVER, JR. V. THOMAS, KENNEDY, SAMPSON & PATTERSON

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

96018

97A339155

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta MAR 13 2001*

*I certify that the above is a true extract from  
the minutes of 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, FEB 28 2001

*The Court of Appeals hereby passes the following order:*

**A01D0208. MICHAEL ALAN SWISSHELM v. GEORGIA DEPARTMENT OF HUMAN  
RESOURCES**

Michael Alan Swisshelm filed this discretionary application from the trial court's January 12, 2001 judgment ordering him to pay back child support. The application was mailed by certified mail using only a metered postmark. A metered postmark cannot be considered by this Court as an official postmark for purposes of determining timeliness of filing. Court of Appeals Rule 4. Consequently, the application may only be deemed filed on the date it was actually received. The application was received for docketing in this Court on February 14, 2001, without proof of the official postmark date for certified mailing to this Court, as required by Court of Appeals Rule 4.

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 Swisshelm's application was filed 33 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* FEB 28 2001

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

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

*W. L. Martin, Jr.* <sup>Clerk</sup>

# Court of Appeals of the State of Georgia

ATLANTA, FEB 16 2001

*The Court of Appeals hereby passes the following order:*

**A01D0209. ROY BRYANT v. THE STATE.**

Roy Bryant seeks a discretionary appeal of the order of the superior court denying his motion to vacate an illegal sentence. The denial of a motion to vacate a void or illegal sentence is appealable as a matter of right and a trial court can correct a void sentence at any time. See Williams v. State, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999).

Bryant has filed a timely application for discretionary appeal rather than a notice of appeal. When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j).

Because this application falls under OCGA § 5-6-35 (j), it is hereby GRANTED. Bryant shall have ten (10) days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). 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*

FEB 16 2001

*I certify that the above is a true extract from  
the minutes of 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, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0210

GREGORY B. FORD V. AA-ACTION, INC. D/B/A COLLEGE PARK SELF-STORAGE &  
U-HAUL

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

99018

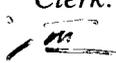
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*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*            MAR -8 2001

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*Will L. Mart*,  Clerk.

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

ATLANTA,            MARCH            15, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0211  
GARY RISHEL V. MICHAEL FITZGERALD

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

97018

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*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR 15 2001

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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 09, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0212  
CURTIS SINGLETON V. DENISE GLASCO-SIMS

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.

93018

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*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR -9 2001

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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, MARCH 16, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0213  
HEATHER STEWART V. CARLOS RAUL BUCHHAMMER

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

92018

00V848

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 16 2001

*I certify that the above is a true extract from  
the minutes of 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            14, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0214

ARTHUR B. CLARK V. THE STATE

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

71018

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*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta            MAR 14 2001*

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*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 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0215  
MULTIMODAL SERVICES, LTD. V. SAMUEL LASSETER, ET AL

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

91018

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*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta MAR 21 2001*

*I certify that the above is a true extract from  
the minutes of 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, MARCH 19, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0216

JESSIE MAE HULETT V. CRACKER BARREL OLD COUNTRY STORE, 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.

70018

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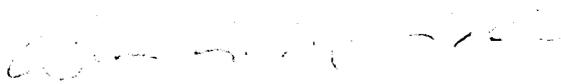
*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 19 2001

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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.*



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

ATLANTA, MARCH 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0217  
KATHRYN M. MILNE V. THE CITIZENS & SOUTHERN NATIONAL BANK

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

94019

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*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR -6 2001

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Clerk.

*Will L. Martin*

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

ATLANTA, MAR 26 2001

*The Court of Appeals hereby passes the following order:*

**A01D0218. FREDERICK BROWN v. DEPARTMENT OF CORRECTION, CLAIMS  
ADVISORY BOARD**

Frederick Brown, a pro se prisoner, filed this discretionary application on February 23, 2001, from the trial court's January 3, 2001 order denying him the right to file pleadings in the case. An application for discretionary appeal, however, must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d); Hill v. State, 204 Ga. App. 582 (420 SE2d 393) (1992). This Court lacks jurisdiction to consider the untimely application, which is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR 26 2001

*I certify that the above is a true extract from  
the minutes of 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. McCall, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

MAR -2 2001

*The Court of Appeals hereby passes the following order:*

**A01D0219. BARBARA NATIONS v. THE STATE.**

Barbara Nations filed a timely application seeking discretionary appeal of the order of the superior court granting the state's motion for judgment on the pleadings or, in the alternative, motion to dismiss for failure to state a claim and also dismissing her amended petition asserting a claim under 42 U.S.C. §1983.

Nations filed a petition in superior court for certiorari and alternative petitions for habeas corpus and quo warranto following her conviction in the municipal court of Doraville for "Structural Repair To Building No Permits in violation of Ordinance Section 1-15 95-23. In addition to seeking appellate review of her conviction, Nations also sought a writ of habeas corpus to inquire into the legality of her sentence and a writ of quo warranto to inquire into the right of the Judge of the Municipal Court of the City of Doraville to such public office.

In her application, Nations contests the merits of the dismissal of her petitions for writs of habeas corpus and quo

warranto. The Supreme Court of Georgia has appellate jurisdiction over all habeas corpus cases and all cases involving extraordinary remedies. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (4) & (5). Accordingly, this application for discretionary appeal is hereby TRANSFERRED to the Supreme Court.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR -2 2001

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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, Jr.* <sup>Clerk</sup>

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

**ATLANTA,**

MAR -6 2001

*The Court of Appeals hereby passes the following order:*

**A01D0220. RONALD EUGENE GIBSON, JR. v. THE STATE.**

On February 26, 2001, Ronald Eugene Gibson, Jr. filed this application for discretionary appeal from the superior court's order entered January 4, 2001, denying a "Motion for Counsel or Appeal for Indigent Defendant." Regardless of whether this case is subject to direct appeal under OCGA § 5-6-34 (a) or the discretionary appeal procedures of OCGA § 5-6-35 (a) and (b), Gibson failed to file his application within 30 days after entry of the order which he seeks to appeal. Therefore, this application is

untimely and is hereby DISMISSED. OCGA § 5-6-35 (d); compare OCGA

§ 5-6-38 (a).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR -6 2001

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*W. L. Martin, Clerk.*

# Court of Appeals of the State of Georgia

ATLANTA,

MAR 27 2001

The Court of Appeals hereby passes the following order:

A01D0221. UNDERWOOD v. JAMES, et al.

Inmate Charles Underwood's civil action against W. Jack James and Susan P. James was dismissed for want of prosecution by order entered on December 14, 2000. Underwood seeks a discretionary appeal from an order denying his "Motion to Set Aside Judgment; For New Trial; For Stay of Disposition." The order complained of was entered on January 24, 2001. Although Underwood claims he mailed his application on February 20, 2001, the mailing envelope bears a postmark of February 22, 2001. In any event, Underwood's application was not physically received in this office until February 26, 2001. OCGA § 5-6-35 (d) requires that applications for discretionary appeal be filed no later than 30 days from the date of the order complained of. Because Underwood's application was not timely filed with this court or otherwise timely mailed by certified mail in the manner authorized under Rule 4 of the Rules of the Court of Appeals, Underwood's application is hereby DISMISSED for lack of jurisdiction.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR 27 2001

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*Will L. Martin, III*  
Clerk

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

ATLANTA,            MARCH            05, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0222  
QUINTON L. JONES V. THE STATE

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

99019  
46919

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*        MAR -5 2001

*I certify that the above is a true extract from  
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hereto affixed the day and year last above written.*

Clerk.

*Will L. Maul, Jr.*

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

ATLANTA, MARCH 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0223

SEARS, ROEBUCK AND COMPANY V. JOHN L. THOMPSON, ET AL

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

97019

99RCCV780

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 29 2001

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

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

ATLANTA, MAR 13 2001

*The Court of Appeals hereby passes the following order:*

**A01D0224. PAUL KNIGHT v. CONTINENTAL GRAIN COMPANY D/B/A DUTCH  
QUALITY HOUSE.**

Paul Knight seeks a discretionary appeal of an award of the appellate division of the State Board of Workers' Compensation that was approved by operation of law.

On October 2, 2000, the appellate division entered its award. Knight appealed this award to the Superior Court of Coffee County and the appeal was docketed in that court on November 21, 2000. But no hearing was held or scheduled within 60 days of the date of the docketing. On Monday, January 22, 2001, the award was affirmed by operation of law and judgment was duly entered for purposes of an appeal under OCGA § 5-6-35. OCGA § 34-9-105 (b) & (d).

On February 27, 2001, Knight's application for discretionary appeal was filed with this court. OCGA § 5-6-35 (d) requires that an application shall be filed with the clerk of this court within 30 days of the entry of the order, decision, or judgment sought to be appealed. As Knight's application was not timely filed, it is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 13 2001

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

*W. L. Martin, Jr.*  
Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

MAR 20 2001

*The Court of Appeals hereby passes the following order:*

**A01D0225. ARTHUR BURROUGHS v. THE STATE.**

Arthur Burroughs seeks a discretionary appeal of the order of the superior court denying his extraordinary motion for new trial. Although the order sought to be appealed was entered on January 12, 2001, this application was not filed with this court until March 1, 2001.

Because this application was not filed in this court within 30 days of the entry of the order, decision, or judgment complained of by Burroughs, it is untimely. OCGA § 5-6-35 (d). This court lacks jurisdiction to consider an untimely application for discretionary

appeal. Thus, this application is DISMISSED. Styles v. State, 245

Ga. App. 90, 91 (537 SE2d 377) (2000).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR 20 2001

*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.*

*Will L. Clerk*

# Court of Appeals of the State of Georgia

ATLANTA APRIL 05, 2001

*The Court of Appeals hereby passes the following order:*

Case No. A01D0225

ARTHUR BURROUGHS 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 5 2001*

*I certify that the above is a true extract from  
the minutes of 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. Z. Mart...*

Clerk.

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

ATLANTA, MARCH 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0226

ABB RISK MANAGEMENT SERVICES, ET AL V. FRED LORD

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.

71019

CV001465AB 254-52-8822

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta MAR 29 2001*

*I certify that the above is a true extract from  
the minutes of 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. Maul, Jr.*

# Court of Appeals of the State of Georgia

MAR 15 2001

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0227. Brown v. Workers Compensation**

Sharon Marcella Brown filed this application seeking discretionary review of the trial court's order dismissing her appeal for failure to comply with the requirements of the Workers' Compensation Act. The order Brown seeks to appeal was entered by the trial court on November 7, 2000. This application was filed on March 2, 2001. An application for discretionary review, however, must be filed within 30 days of the entry of the order, decision or judgment complained of. OCGA § 5-6-35 (d). Brown's failure to file her application in a timely manner deprives this Court of jurisdiction to consider this application. Accordingly, this application is ordered DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 15 2001

*I certify that the above is a true extract from  
the minutes of 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, APRIL 16, 2001

*The Honorable Court of Appeals met pursuant to adjournment.*

*The Following order was passed:*

Case No. A01D0227

SHARON MARCELLA BROWN V. WORKERS COMPENSATION

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

91-019  
0000402            260-21-7651

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 16 2001**

*I certify that the above is a true extract from  
the minutes of 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,            MARCH            30, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0228

WILLIAM CARR WHITE, ET AL V. THE BOARD OF COMMISSIONERS OF MCDUFFIE  
COUNTY, GEORGIA, ET AL

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

70019

990839            000369

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta            MAR 30 2001*

*I certify that the above is a true extract from  
the minutes of 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 27, 2001

*The Court of Appeals hereby passes the following order:*

A00D0228. MICHAEL CHILDS, ET AL v. BILL CAMPBELL, ET AL

Upon consideration of the Motion for Clarification and to Re-Assume Jurisdiction filed by the Appellants, the motion is hereby denied.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 27 2001**

*I certify that the above is a true extract from  
the minutes of 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. Mat. [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA, MAR 15 2001

*The Court of Appeals hereby passes the following order:*

**A01D0229. JAMES W. GREEN v. EMMA MARSH GOODYEAR GREEN.**

James W. Green seeks a discretionary appeal of the order of the superior court granting Emma Marsh Goodyear Green's complaint for determination of dischargeability and holding that certain awards in the Judgment and Decree of Divorce were in the nature of alimony, support, or maintenance for Emma Green and were not dischargeable in bankruptcy.

James Green asserts two errors in his application. First, that the trial court erred in holding him in civil contempt of the provisions of the Judgment and Decree of Divorce requiring him to pay, within the time therein specified, the total amount of \$261,594.33 to Emma Green. Second, the trial court erred in holding that the obligations at issue were not dischargeable in bankruptcy.

Because this application raises issues directly pertaining to and requiring an interpretation of the Judgment and Decree of Divorce, the Supreme Court of Georgia has appellate jurisdiction under Ga. Const. of 1983, Art. VI, Sec. VI, Par. 3 (6). Compare

Lockridge v. Rabun, 261 Ga. 256 (405 SE2d 874) (1991) and Lewis v. Lewis, 258 Ga. 617 SE2d 18) (1988); see Griffin v. Griffin, 243 Ga. 149 (254 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).

As this court is without appellate jurisdiction in regard to this application, it is hereby TRANSFERRED to the Supreme Court. Ga. Const. of 1983, Art. VI, Sec. I, Par. VIII.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      MAR 15 2001

*I certify that the above is a true extract from the minutes of 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*, Clerk

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

ATLANTA, MARCH 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0230

FIVE STAR FOOD SERVICE, INC., ET AL V. MILLEDGEVILLE COCA-COLA, ET AL

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

95020

00CV36389C 252-66-5899

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 29 2001

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

*W. L. Marshall*

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

ATLANTA, MAR 23 2001

*The Court of Appeals hereby passes the following order:*

**A01D0231. FLAT SHOALS LAND HOLDING, L.L.C. v. BOARD OF ZONING  
ADJUSTMENT OF THE CITY OF ATLANTA, ET AL.**

Flat Shoals Land Holding, L.L.C., seeks an appeal from an order of the superior court entered on February 2, 2001, affirming a decision of the City of Atlanta Board of Zoning Adjustment. The applicant's submission was received in this court on Tuesday, March 6, 2001, 32 days after entry of the order complained of. Because applicant failed to file its application for appeal within 30 days as required under OCGA § 5-6-35 (d), the application is hereby DISMISSED for lack of jurisdiction. See Hill v. State, 204 Ga. App. 582 (420 SE2d 393) (1992).

*Court of Appeals of the State of Georgia*

Clerk's Office, Atlanta MAR 23 2001

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

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

ATLANTA, MARCH 22, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0232

CENTRAL OF GEORGIA RAILROAD COMPANY V. HAROLD F. REHEIS, DIRECTOR

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

90020

2000CV26209

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 22 2001

*I certify that the above is a true extract from  
the minutes of 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, APR -5 2001

*The Court of Appeals hereby passes the following order:*

**A01D0233. IN THE INTEREST OF: C. E. A. AND C. T. A., CHILDREN**

Deleona Ray filed this discretionary application on February 16, 2001, in the Supreme Court from the juvenile court's January 16, 2001 order denying her motion for new trial in this case involving deprivation, legitimation, and custody of Ray's two grandchildren. On March 2, 2001, the Supreme Court transferred the application on the basis that this Court had jurisdiction of the case. An application for discretionary appeal, however, must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d); Hill v. State, 204 Ga. App. 582 (420 SE2d 393) (1992). Here, the application was filed 31 days after entry of the order appealed from. Thus, this Court lacks jurisdiction to consider the application, which is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* APR 5 2001

*I certify that the above is a true extract from  
the minutes of 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, MAR 13 2001

*The Court of Appeals hereby passes the following order:*

**A01D0234. DEBORAH BOEREMA BROWN v. UDELL CALVIN BROWN, JR.**

On December 9, 1988, a final judgment and decree of divorce was entered incorporating therein a settlement agreement of the parties, Deborah Boerema Brown and Udell Calvin Brown, Jr.

Pursuant to this agreement, the final judgment and decree of divorce awarded physical custody of the parties' minor child to Deborah Brown and required Udell Brown to pay child support of \$400.00 per month.

On September 1, 2000, Deborah Brown filed an amended petition for modification of support seeking to enforce the support provisions incorporated in the final judgment and decree of divorce by a contempt proceeding and to obtain attorney fees and a modification of the support award. On February 5, 2001, the superior court entered an order on Deborah Brown's petition denying her request for attorney fees and her motion for contempt to enforce the child support order.

Deborah Brown seeks a discretionary appeal of that order. In her application, she asserts that the trial court erred in

finding that Udell Brown was not in wilful contempt, and that the support order on its face does not require the conclusion that Udell Brown's obligation of support was conditioned upon a particular employer.

Because this action is ancillary to the 'parties' divorce proceeding, a matter within the Supreme Court's appellate jurisdiction, this appeal is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); Griffin v. Griffin, 243 Ga. 149 (254 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 with the Court of Appeals); see also Crotty v. Crotty, 219 Ga. App. 408 (1) (465 SE2d 517) (1995).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAR 13 2001

*I certify that the above is a true extract from the minutes of 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, APRIL 03, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0235

D. KEVIN WHEELER V. WACHOVIA CORPORATION

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

97020

2000CV29696 253-88-6341

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

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

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

*Clerk.*

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

ATLANTA, APRIL 04, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0236  
STEPHEN FODOR V. BEVERLY FODOR

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.

93020

2000CV04884E

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta APR 4 2001*

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin*

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

ATLANTA, MARCH 28, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0237  
RHEEM MANUFACTURING CO. V. NORA JACKSON

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

00CV36390C 267-88-4641

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta MAR 28 2001*

*I certify that the above is a true extract from  
the minutes of 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 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0238  
CAROLYN PHILLIPS V. STEVEN PHILLIPS

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

71020

001160822

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

APR 6 2001

*I certify that the above is a true extract from  
the minutes of 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 12, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0239  
COBB COUNTY SCHOOL DISTRICT V. SHIRLEY COCHRAN

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

91020

001907705 203-30-3729

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **APR 12 2001**

*I certify that the above is a true extract from  
the minutes of 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. Mat. [Signature]*

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

ATLANTA, MAY 02, 2001

*The Honorable Court of Appeals met pursuant to adjournment.*

*The Following order was passed:*

Case No. A01D0239

COBB COUNTY SCHOOL DISTRICT V. SHIRLEY COCHRAN

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

91-020  
001907705 203-30-3729

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 02 2001**

*I certify that the above is a true extract from  
the minutes of 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, MARCH 30, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0240  
MAURICE MONTGOMERY 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.

70020

93B16735

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAR 30 2001

*I certify that the above is a true extract from  
the minutes of 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, APRIL 11, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0241

JOHN A. SHOOK, ET AL V. LEWIS Y. CRAINE, 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.

94021

97A24654

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

APR 11 2001

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin*

# Court of Appeals of the State of Georgia

ATLANTA, APR 3 2000

*The Court of Appeals hereby passes the following order:*

## **A01D0242. JACK GALARDI ET AL. v. VANESSA STEELE-INMAN**

Jack Galardi and Trop, Inc. d/b/a The Pink Pony seek to appeal an order denying their motion for new trial or in the alternative for judgment notwithstanding the verdict and their motion to set aside the judgment in favor of Vanessa Steele-Inman.<sup>1</sup> Although the denial of a motion to set aside under OCGA § 9-11-60 (d) is subject to the discretionary appeal procedure, OCGA § 5-6-35 (a) (8); *MMT Enterprises, Inc. v. Cullars*, 218 Ga. App. 559, 561 (2) (462 SE2d 771) (1995), the denial of a motion for new trial is directly appealable. A directly appealable order denying a motion for new trial does not become subject to the application requirements of § 5-6-35 because the appellant is also seeking to appeal from the denial of a motion to set aside. *Martin v. Williams*, 263 Ga. 707 (438 SE2d 353) (1994).

---

<sup>1</sup>The applicants have failed to comply with OCGA § 5-6-35 (c) in that they have not included copies of the motions that led directly to the order they seek to appeal. The Court, therefore, assumes for purposes of this order that the trial court's description of the motions is correct.

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. In the instant case, however, it appears that the applicants have filed a notice of appeal.<sup>2</sup> Assuming the applicants have filed a timely notice of appeal, then OCGA § 5-6-35 (j) does not apply. This application, therefore, is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* APR 3 2008

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin*

*Clerk.*

---

<sup>2</sup>The Court cannot conclusively determine whether this is so, or whether jurisdiction over such direct appeal is otherwise proper, given the dearth of materials included with the application.

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

ATLANTA, APRIL 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0243  
KATHLEEN IMBROGNO V. LORETTA L. SHARP

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

96021

97C45981

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 13 2001**

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin*

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

**ATLANTA,            MARCH            30, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0244  
WILLIE CARDELL THORNTON V. THE STATE

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

90021

2000R421            2000R538

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta    MAR 30 2001*

*I certify that the above is a true extract from  
the minutes of 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 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0245

WALTON COUNTY BOARD OF EDUCATION V. DONNA CABE

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

98021

0020941

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 13 2001**

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*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 11, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0246  
SATILLA REGIONAL MEDICAL CENTER V. DIANE CORBETT

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.

99021

01V0001 259-96-7705

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 11 2001**

*I certify that the above is a true extract from  
the minutes of 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. Z. Mart...*

Clerk.

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

ATLANTA, APRIL 12, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0247

BRIAR CREEK BROADCASTING/WKCX (K-98) V. GARDEN LAKES SUPPLY

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

97021

00CV195723

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 12 2001**

*I certify that the above is a true extract from the minutes of 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. Mat: etc*

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

ATLANTA, APRIL 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0248

SUSAN VATRICE BURNETT BURNS V. DARIAN GREGORY BURNS

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.

93021

00CV198911

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 13 2001**

*I certify that the above is a true extract from  
the minutes of 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 Z. Mat...* Clerk.

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0248. SUSAN VATRICE BURNETT BURNS v. DARIAN GREGORY  
BURNS.**

Applicant's motion for Mathew Staver, Erik W. Stanley, and Joel Oster to appear by courtesy pursuant to Court of Appeals Rule 9 (c) is granted and Applicant's motion for Mathew Staver to serve as lead counsel is also granted. Court of Appeals Rule 9 (c). In accordance with the motion, Douglas Slade will remain as co-counsel in the case. A copy of this order will be filed as part of the record on appeal.

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

**MAY 09 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, APRIL 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0249  
SHEPHERD CENTER, ET AL V. ANTHONY WILLIAMS

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.

92021

2001CV32695 258-29-3575

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 13 2001**

*I certify that the above is a true extract from  
the minutes of 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*

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

ATLANTA, APRIL 24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0250  
STATE PERSONNEL BOARD, ET AL V. RALPH MCCORMICK

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.

71021  
99V0602

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **APR 24 2001**

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

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

**ATLANTA, APRIL 25, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0251  
JOYCE BUTLER V. HENRY COUNTY BOARD OF EDUCATION

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

91021

01CV0229M

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **APR 25 2001**

*I certify that the above is a true extract from  
the minutes of 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*

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

ATLANTA, APRIL 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0252

JULIE VIOLET PETERS V. LOUIS PHILIP PETERS

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

70021

01A003980

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 13 2001**

*I certify that the above is a true extract from the minutes of 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 25, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0253

KELVIN DAVIS V. JACKIE BARRETT, SHERIFF OF FULTON COUNTY, GEORGIA,  
ET AL

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

94022

2000CV19332

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* APR 25 2001

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin*

Clerk.

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

ATLANTA, APRIL 20, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0254

STEVEN MICHAEL BRACKEN V. AMANDA L. FOLSOM

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

95022

2000V365 2000V573

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 20 2001**

*I certify that the above is a true extract from the minutes of 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, MARCH 27, 2001

*The Court of Appeals hereby passes the following order:*

**Case No. A01D0254**

**STEVEN MICHAEL BRACKEN V. AMANDA L. FOLSOM**

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*

MAR 27 2001

*I certify that the above is a true extract from  
the minutes of 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,

APR 27 2001

*The Court of Appeals hereby passes the following order:*

A01D0255. GILBERTO VELEZ-OCHOA v. RUSSELL A. MORGAN LANDSCAPE MANAGEMENT ET AL.

Gilberto Velez-Ochoa was awarded benefits in a workers compensation case. His employer, Russell A. Morgan Landscape Management, and its insurer, MALTA/PRM, were granted permission to appeal that award in Case No. A01D0052. After the employer and insurer filed their notice of appeal, Velez-Ochoa filed his motion to dismiss appeal in the superior court.

After the superior court denied the motion to dismiss appeal via an order entered on March 22, 2001, Velez-Ochoa filed this application seeking a discretionary appeal of that superior court order. However, a ruling by the superior court on a motion to dismiss appeal is subject to direct appeal. *Gilman Paper Co. v. James*, 235 Ga. 348, 349 (219 SE2d 447) (1975); *Brown v. E. I. Du Pont De Nemours & Co.*, 240 Ga. App. 893, 894 (1) (525 SE2d 731) (1999); *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859, 860 (424 SE2d 33) (1992). Under OCGA § 5-6-35 (j), where a party files

a discretionary application seeking appellate review of an order that is subject to direct appeal without also filing a timely notice of appeal, this Court is required to grant the application. Therefore, this application is hereby GRANTED. Gilberto Velez-Ochoa 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 record transmitted to the Court of Appeals.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

APR 27 2001

*I certify that the above is a true extract from the minutes of 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*

# Court of Appeals of the State of Georgia

ATLANTA,

APR 24 2001

*The Court of Appeals hereby passes the following order:*

## **A01D0256. JONES v. THE STATE.**

Geoffery Jones seeks a discretionary appeal from an order denying reconsideration of a previous order revoking his probation. We note that Jones's direct appeal from the revocation order was dismissed due to his failure to follow the discretionary appeal procedure as required under OCGA § 5-6-35 (a) (5). Jones is advised that no right to seek appellate review can be created, preserved, or, in this case, revived by the entry of an order that merely denies a motion for reconsideration. Such a motion does not extend the time for filing an application for appeal, nor is the denial of such a motion appealable in its own right. Accord *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Because Jones's application for discretionary appeal was not filed within 30 days of the order revoking his probation as required under OCGA § 5-6-35 (d), and because the subsequent order denying his motion for reconsideration is not otherwise subject to appellate review, Jones's application for appeal is hereby dismissed for lack of jurisdiction.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

APR 24 2001

*I certify that the above is a true extract from  
the minutes of 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. Z. Mat. <sup>Clerk.</sup>*

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

ATLANTA,

**APR 24 2001**

*The Court of Appeals hereby passes the following order:*

A01D0257. CAROLYN PHILLIPS v. STEVEN PHILLIPS.

The applicant filed identical applications for review of the same order of the trial court, one in the Supreme Court and one in this court. The instant application was transferred to this court from the Supreme Court on March 30, 2001. In Case No. A01D0238, this court by order dated April 6, 2001, denied petitioner's application for review of the issues duplicated in this application transferred from the Supreme Court. Therefore, this application for discretionary appeal is hereby DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 24 2001**

*I certify that the above is a true extract from  
the minutes of 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*

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

ATLANTA, APRIL 25, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0258

CALFEE COMPANY OF DALTON D/B/A FAVORITE MARKETS, ET AL V. TRANA C.  
BRIGHT MITCHELL

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

98022

01C175 256-86-0444

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta APR 25 2001*

*I certify that the above is a true extract from  
the minutes of 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. Z. Mat. [Signature]* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA MAY 29, 2001

*The Court of Appeals hereby passes the following order:*

Case No. A01D0258

CALFEE COMPANY OF DALTON D/B/A FAVORITE MARKETS, ET AL V. TRANA C.  
BRIGHT MITCHELL

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*

**MAY 29 2001**

*I certify that the above is a true extract from  
the minutes of 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 26, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0259  
THEODORE D. LADSON ET AL V. REO SOLUTIONS, LLC ET AL

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

99022

0010563840

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 26 2001**

*I certify that the above is a true extract from  
the minutes of 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*

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

ATLANTA, APRIL 24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0260  
DEKALB COUNTY ET AL V. LIONEL AUTRY

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

97022

00CV134399 053-44-6378

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

*I certify that the above is a true extract fromd  
the minutes of 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 24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0261

JOSEPH C. EVANS ET AL V. FRED D. MARSHALL, JR. D/B/A PARADE OF HOMES

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 MUNICIPAL COUR is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93022

96CV7240

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **APR 24 2001**

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

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

ATLANTA, MAY 02, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0262  
INTELLITRAIN, INC. ET AL V. ANGELA J. BAKER

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

92022

2001CV1148 459-71-3101

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* MAY 2 2001

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

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

ATLANTA, MAY 29, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0262

INTELLITRAIN, INC. ET AL V. ANGELA J. BAKER

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

92-022  
2001CV1148 459-71-3101

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 29 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,

MAY

04, 2001

*The Honorable Court of Appeals met pursuant to adjournment.*

*The Following order was passed:*

Case No. A01D0263

D. LEROY V. MICHAEL THURMOND ET AL

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

91-022  
2000CV30183

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

MAY 04 2001

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

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

ATLANTA, MAY 01, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0264

MICHAEL ALAN SWISSHELM V. GEORGIA DEPARTMENT OF HUMAN RESOURCES, ex. r  
rel., 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.

70022

99RCUS2927

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 1 - 2001**

*I certify that the above is a true extract from  
the minutes of 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 E. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 02 2001**

**A01D0265. WEINSTOCK & SCAVO, P.C. v. ALAMO RENT-A-CAR, ET AL.**

After initially denying the above discretionary application, the applicant filed a Motion for Reconsideration on May 18, 2001. Thereafter, the respondent filed a Response to the Motion for Reconsideration on May 25, 2001. After consideration of the Motion for Reconsideration and the response, this Court granted the Motion for Reconsideration and granted the application by this Court's order of June 8, 2001.

Upon further consideration of this application, the Court believes, through clerical error, that two of the Court's orders in this matter were not disseminated. Therefore, the clerk of this Court is directed to send copies of the Court's order of June 7, 2001 and June 8, 2001, granting the Motion for Reconsideration and granting the application.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **AUG 02 2001**

*I certify that the above is a true extract from  
the minutes of 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, JUNE 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0265  
WEINSTOCK & SCAVO, P.C. V. ALAMO RENT-A-CAR 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.

94023  
9910527124

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 8 2001**

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

*W. Z. Martin*

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

99-1-5271-24  
Cobb

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUN 08 2001**

**A01D0265. WEINSTOCK & SCAVO, P.C. v. ALAMO RENT-A-CAR, ET AL.**

Weinstock & Scavo, P.C. filed a Motion for Reconsideration of the order of this Court, entered May 9, 2001, denying their application for discretionary appeal. Upon reconsideration, the Court's order of May 9, 2001, denying the application for discretionary appeal is hereby VACATED; the above-captioned application is granted only as to the following issue: whether there exists sufficient proof of the amount of attorney fees and expenses of litigation to support the trial court's award thereof in the amount of \$18,598.69.

Pursuant to the authority of this Court to protect and aid its appellate jurisdiction, the application for discretionary appeal is denied as to all other issues. Ga. Const. of 1983, Art. VI, Sec. I, Par. IV; see *Grim v. Grim*, 268 Ga. 2, 3 (2) (486 SE2d 27) (1997); *Brown v. Kinser*, 218 Ga. App. 385, 386 (461 SE2d 564) (1995); *A Southern Outdoor Promotions v. National Banner Company*, 215 Ga. App. 133(1) (449 SE2d 684) (1994); see also *Matthews v. Riviera Equipment, Inc.*, 152 Ga. App. 870, 871(2) (264 SE2d 318) (1980).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 8 2001**

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

*[Handwritten Signature]*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*      **JUN 07 2001**

**A01D0265. WEINSTOCK & SCAVO, P.C. v. ALAMO RENT-A-CAR ET AL.**

Weinstock & Scavo, P.C., filed a motion for reconsideration of the order of this court, entered May 9, 2001, denying their application for discretionary appeal. Upon reconsideration, the above-captioned application is granted only as to the following issue: Whether there exists sufficient proof of the amount of attorney fees and expenses of litigation to support the trial court's award thereof in the amount of \$18,598.69.

Pursuant to the authority of this court to protect and aid its appellate jurisdiction, the application for discretionary appeal is denied as to all other issues. Ga. Const. of 1983, Art. VI, Sec. I, Par. IV.; see *Grim v. Grim*, 268 Ga. 2, 3 (2) (486 SE2d 27) (1997); *Brown v. Kinser*, 218 Ga. App. 385, 386 (461 SE2d 564) (1995); *A Southern Outdoor Promotions v. National Banner Company*, 215 Ga. App. 133 (1) (449 SE2d 684) (1994); see also *Matthews v. Riviera Equipment, Inc.*, 152 Ga. App. 870, 871 (2) (264 SE2d 318) (1980).

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

**JUN - 7 2001**

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

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

*W. Z. Matthews, Jr.*, Clerk.

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

ATLANTA, MAY 09, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0265  
WEINSTOCK & SCAVO, P.C. V. ALAMO RENT-A-CAR ET AL

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

94023

9910527124

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 09 2001**

*I certify that the above is a true extract from  
the minutes of 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 25, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0266  
ROSANNA STOKES V. GREGORY GIBBS ET AL

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

95023

9713331

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

APR 25 2001

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

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

ATLANTA, MAY 04, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0267  
WILLIAM DEMPSEY MCGUIRE V. THE STATE

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

96023

99CR15022

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAY 04 2001

*I certify that the above is a true extract from  
the minutes of 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 R. McIntire* Clerk.

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

ATLANTA, MAY 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0268

CINCINNATI INDEMNITY CO. V. ROBERT (BOBBY LEE) JENKS ET AL

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

90023

0001780 386-78-9956

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 08 2001**

*I certify that the above is a true extract from the minutes of 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 R. Martin* Clerk.

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S01C1302

Atlanta, July 2, 2001

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed: **JUL 18 2001**

CINCINNATI INDEMNITY COMPANY v. ROBERT (BOBBY LEE) JENKS et al.

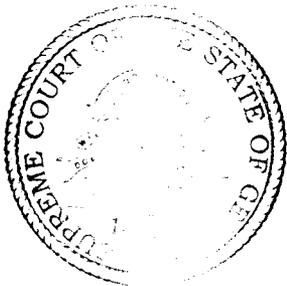
It is ordered that this petition for certiorari is allowed withdrawn.

All the Justices concur.

A01D0268 90023 0001780 38678995  
Bill of Costs, \$80.00

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta July 17, 2001



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.

*Lynda M. Stickens*, Chief Deputy Clerk.

Lower Court Case No. A01D0268 90023 0001780  
386789956  
Court of Appeals of Georgia

Filed in office on:

**JUL 18 2001**

Remittitur from the Supreme Court.  
Clerk, Court of Appeals of Georgia.

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

ATLANTA, MAY 11, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0269

RICHARD F. JUGAR V. GA. DEPT. OF LABOR, ET AL

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

96024

200CV31044

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 11 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, MAY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0270

CHARLES RICHARD BOYLES IV V. TAMI FRANCES BOYLES

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

98023

99CV109483

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 10 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0271. AMERIQUEST MORTGAGE CO. v. STEPHEN JAN BARBER.**

Applicant Ameriquest Mortgage Company moved to intervene in a divorce action. The motion to intervene was denied and Stephen Barber sought an award of attorney's fees pursuant to OCGA 19-15-14. The trial court granted the motion for attorney's fees and the application seeks appellate review that award.

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 Court lacks jurisdiction to consider this application. *Keeler v. Keeler*, 263 Ga. 151 (430 SE2d 5) (1993); *Shapiro v. Lipman*, 259 Ga. 85 (377 SE2d 673) (1989); *Odem v. Odem*, 241 Ga. 451 (246 SE2d 308) (1978). Further, a motion for attorney's fees and expenses is ancillary to the underlying divorce case. *Hallman v. Emory University*, 225 Ga. App. 247 (483 SE2d 362) (1997); see also *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979) (holding in an analogous context than "an application for contempt to enforce the divorce

decree is ancillary to, and an incident of, the divorce action, and jurisdiction to hear an appeal of this nature is in this court.") Therefore, the application is ordered TRANSFERRED to the Supreme Court.

*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.*

*William Z. Martin*, Clerk.

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

ATLANTA,

**MAY 10 2001**

*The Court of Appeals hereby passes the following order:*

**A01D0272. FAIRMONT INS. CO. C/O MANAGED COMP., INC. et al. v.  
GAN.**

On April 16, 2001, Fairmont Insurance Company c/o Managed Comp., Inc., (Fairmont) filed an application for discretionary appeal. Fairmont subsequently filed a motion to withdraw this application on the ground that the issues sought to be raised on appeal have been resolved. Fairmont's motion is hereby GRANTED.

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

**MAY 10 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, MAY 02, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0273  
IN THE INTEREST OF: J. A., AND A. A., CHILDREN

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

93023

14600J548 14600J549

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 02 2001**

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

*W. Z. Martin, III*

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

ATLANTA, MAY 09, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0274

IN THE INTEREST OF: S. D. P., K. G. P, & A. C. P., CHILDREN

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

92023

0036691 0036701 0036711

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 09 2001**

*I certify that the above is a true extract from the minutes of 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, **APR 27 2001**

*The Court of Appeals hereby passes the following order:*

**A01D0275. KENNY TOBIAS THORPE v. STATE OF GEORGIA.**

On Thursday, April 19, 2001, Kenny Tobias Thorpe, acting pro se, filed an application for discretionary appeal of the order of the superior court, entered on March 19, 2001, denying his motion for leave to file an out-of-time appeal. An application for discretionary appeal must be filed within 30 days of the entry of the order, decision, or judgment sought to be appealed. OCGA § 5-6-35 (d). Because Thorpe has not filed his application within 30 days of the entry of the order denying his motion, his application is untimely and is hereby DISMISSED. See *Bigham v. Wright*, 194 Ga. App. 194 (390 SE2d 109) (1990).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 27 2001**

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

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

ATLANTA, MAY 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0276  
WAFFLE HOUSE, INC. V. SHAWN HALL

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

91023

99C0142S3

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **MAY 21 2001**

*I certify that the above is a true extract from  
the minutes of 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 22, 2001**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0277

ANGELA FAVORS V. FULTON-DEKALB HOSPITAL AUTHORITY D/B/A GRADY HEALTH  
SYSTEM

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

70023

01CV32980 252-211-5198

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 22 2001**

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

*[Handwritten Signature]*

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

ATLANTA, MAY 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0278  
DAVID RONALD STALVEY V. GISELA I. BATES

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.

94024  
99V129

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 08 2001**

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

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

95-024

ATLANTA, MAY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0279  
KEVIN MATTHEW MAGEE V. THE STATE

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

95024

1999CR16165

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 10 2001**

*I certify that the above is a true extract from  
the minutes of 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 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0280  
FRED RASKIN V. CARL J. SURRETT

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

90024

CVZ001100

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 22 2001**

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

*W. Z. Hunt, Jr.*

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

ATLANTA,

**MAY 29 2001**

*The Court of Appeals hereby passes the following order:*

**A01D0281. DEKALB COUNTY et al. v. HEAD et al.**

Appellants, DeKalb County, Georgia and the DeKalb County Board of Commissioners filed a motion to withdraw their application for a discretionary appeal with this Court. Appellants' motion to withdraw their application is hereby GRANTED, and this application is hereby WITHDRAWN.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 29 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

**MAY 24 2001**

*The Court of Appeals hereby passes the following order:*

**A01D0282. ROCK, M. D. v. HEAD, Jr., et al.**

This application for discretionary appeal marks the second appearance of this case in this court. See *Head v. DeKalb County*, 246 Ga. App. 756 (542 SE2d 176) (2000). John A. Rock, M. D., now seeks an appeal from the final judgment of the superior court in this declaratory judgment action. In the opinion disposing of the prior appeal, this court observed that “[b]ecause the plaintiffs do not seek to change the Board’s decision in any way, but simply seek a declaration as to the legal effect of the Board’s action, this case cannot be considered an ‘appeal’ of the zoning decision.” *Id.* at 759 (1).

Because this court decided that the prior application for appeal in this case should be heard on its merits, we found it unnecessary to decide whether this case fell outside the Supreme Court’s “bright line” rule that an application for discretionary appeal must be filed “[i]f the underlying subject-matter is zoning.” *O S Advertising Co. v. Rubin*, 267 Ga. 723, 724 (1) (482 SE2d 295) (1997). Any lingering doubts regarding the proper avenue for appeal in a case such as this, however, were laid to rest by the Supreme Court’s most recent zoning decision in *Sprayberry v. Dougherty County*, 273 Ga. 503 (\_\_\_ SE2d \_\_\_) (2001). Because

we have already found that this case involves neither a direct *nor indirect*<sup>1</sup> challenge to an administrative decision to rezone property, it follows that the judgment complained of is not subject to discretionary appeal under the rule established in *O S Advertising Co. v. Rubin*, supra.

Accordingly, Rock's application for discretionary appeal is hereby *granted* as required under OCGA § 5-6-35 (j). Applicant shall have ten days from the date of this order to file his notice of appeal. The clerk 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

**MAY 24 2001**

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

---

<sup>1</sup>*Sprayberry v. Dougherty County*, supra, clearly involved an indirect challenge to the propriety of an administrative zoning decision, yet the Supreme Court nevertheless found the order complained of to be directly appealable. For reasons that are not made clear, the Supreme Court reached a result that is plainly inconsistent with its prior decision in *Crymes v. Smith*, 260 Ga. 730 (401 SE2d 11) (1991) (cited with approval in *Rebich v. Miles*, 264 Ga. 192 (448 SE2d 192) (1994)). In any event, we are confident that the case now before us falls well outside the class of cases made subject to discretionary appeal under either OCGA § 5-6-35 (a) (1) or the Supreme Court's directive in *O S Advertising v. Rubin*, supra.

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

ATLANTA, MAY 24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0283

VICKIE MINECCI V. JON MINECCI

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

99024

00CV295

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 24 2001**

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

*W. Z. Mathis, III*

Court of Appeals  
of the State of Georgia

97-024

ATLANTA, MAY 11, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0284  
TECUMSEH PRODUCTS COMPANY V. LETHA ANN BROWN

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

97024

2001S010086

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

**MAY 11 2001**

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

*W. Z. Martin, Jr.*

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

*file*

ATLANTA, MAY 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0285  
DODGE COUNTY BOARD OF EDUCATION ET AL V. NANCY CANNON

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

93024

01CV011

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 29 2001**

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

*John Z. Martin, III*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0285. DODGE COUNTY BOARD OF EDUCATION ET AL. v. NANCY  
CANNON**

Upon consideration of Respondent's Motion to Dismiss Application for Discretionary Review, the motion is hereby DENIED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 29 2001**

*I certify that the above is a true extract from  
the minutes of 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, JUNE 29, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0285

DODGE COUNTY BOARD OF EDUCATION ET AL V. NANCY CANNON

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

93-024  
01CV011

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

**JUN 29 2001**

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

*W. Z. Martin, III*

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

ATLANTA, MAY 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0286  
CSX TRANSPORTATION, INC. V. CITY OF LITHONIA

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

92024

98A429225

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 29 2001**

*I certify that the above is a true extract from  
the minutes of 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 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0287

FRANK W. WAYNE V. THE STATE

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

71024

98441534

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 08 2001**

*I certify that the above is a true extract from  
the minutes of 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 R. Martin* Clerk.

~~ORIGINAL~~

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

ATLANTA, MAY 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0288  
LOCKHEED MARTIN AERONAUTICAL SYSTEMS ET AL V. GREGORY MCFARLAND

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

91024

0110075699 281-60-7070

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 21 2001**

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

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

*W. Z. Martin, Jr.*  
Clerk.

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

ATLANTA, JUNE 08, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0288

LOCKHEED MARTIN AERONAUTICAL SYSTEMS ET AL V. GREGORY MCFARLAND

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

91-024  
0110075699 281-60-7070

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

**JUN - 8 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, MAY 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0289

AYCOX & AYCOX, CLAYTON, INC. ET AL V. JOHN BLEAKLEY FORD, INC.

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

70024

00CV01724

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

MAY 21 2001

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

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

 Clerk

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

ATLANTA, MAY 31, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0290

CHARLES E. THORPE, JR. V. LATASHI R. THORPE

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

94025

980311410

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 31 2001**

*I certify that the above is a true extract from the minutes of 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 Z. Martin, JR.*

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

ATLANTA, JUNE 27, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0290

CHARLES E. THORPE, JR. V. LATASHI R. THORPE

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

94-025  
980311410

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

**JUN 27 2001**

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

*W. Z. Martin, Jr.*

95-025

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

ATLANTA, MAY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0291  
JUDITH F. HURT V. NORWEST MORTGAGE, INC. F/K/A INDEPENDANCE ONE  
MORTGAGE CORPORATION, ET AL

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

95025  
98CV484C

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **MAY 10 2001**

*I certify that the above is a true extract from  
the minutes of 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 30, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0291

JUDITH F. HURT V. NORWEST MORTGAGE, INC. F/K/A INDEPENDANCE ONE  
MORTGAGE CORPORATION, ET AL

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

95-025  
98CV484C

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 30 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, MAY 30, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0292  
MICHAEL L. THOMAS V. LISA THOMAS JONES

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

96025

99V0923

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 30 2001**

*I certify that the above is a true extract from  
the minutes of 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 24 2001

*The Court of Appeals hereby passes the following order:*

**A01D0293. ANTHONY TYRONE MARION A/K/A MARVIN WASHINGTON  
v. THE STATE.**

Anthony Tyrone Marion a/k/a Marvin Washington filed an application seeking discretionary review of an amended order revoking his probation. The order sought to be appeal was filed on March 2, 2001. The application was filed on May 4, 2001. However, an application for discretionary review must be filed within 30 days of the entry of the order, decision, or judgment complained of. OCGA § 5-6-35 (d). The failure to file an application in a timely manner deprives this Court of jurisdiction to consider the application.

Also, we acknowledge the representation contained in the application that the superior court signed an order granting a requested extension of time for filing this application. A trial court has authority under OCGA § 5-6-39 to grant a 30 day extension of time for filing a notice of appeal. However, no comparable authority exists for granting an extension of time to file an application for discretionary appeal. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983).

Therefore, the application was untimely filed and this Court lacks jurisdiction to consider it. For this reason, the application is hereby DISMISSED.

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

**MAY 24 2001**

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

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

*W. Z. Mathis, Jr.* Clerk.

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

ATLANTA, JUNE 01, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0294  
WILLIAM CRAIG O'NEAL V. JOHN W. OXENDINE, COMR.

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

99025

2000CV30965

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUN 1 2001

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date: July 12, 2001**

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1519**

**WILLIAM CRAIG O'NEAL v. JOHN W. OXENDINE, Comr.**

Clerk, Supreme Court of Georgia

Case No. A01D0294

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**JUL 12 2001**

Clerk, Court of Appeals of Georgia

*W. Z. Martin, Jr.*

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

ATLANTA, MAY 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0295

JOSEPH HOLLINGSBED V. CITY OF MACON FIRE DEPARTMENT

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

97025

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 21 2001**

*I certify that the above is a true extract from the minutes of 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, JUNE 01, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0296  
JOHN R. ACREE V. THE STATE

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

93025

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 1 2001**

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

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

*W. Z. Martin, Clerk.*

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

ATLANTA, MAY 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0297

RONALD JONES V. PAT HARPER

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

92025

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 29 2001**

*I certify that the above is a true extract from the minutes of 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 30, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0298  
BURLIN, INC., ET AL V. ETTA J. PETTIFORD

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

71025

2001CV54 254-70-8384

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAY 30 2001**

*I certify that the above is a true extract from  
the minutes of 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, JUNE 20, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0298

BURLEN, INC., ET AL V. ETTA J. PETTIFORD

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

71-025  
2001CV54 254-70-8384

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 20, 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 10, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of S01C1533

BURLLEN, INC., et al. v. ETTA J. PETTIFORD

Clerk, Supreme Court of Georgia

Case No. A01D0298

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 04, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0299  
PATRICIA EVERETTE V. DEREK I. FRANCO

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

91025

00A013583 0108182

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAY 24 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 01, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0300

NANCY WALLS V. THE STATE

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

70025

99SR578

98SR3052

98SR4126

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 1 2001**

*I certify that the above is a true extract from the minutes of 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, JUNE 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0301  
ANTONIO BERGAE ETCHINSON V. THE STATE

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

94026

99CR2076

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN-6 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0301. ANTONIO BERGAE ETCHINSON v. THE STATE**

The Court's order of June 6, 2001, dismissing the above application, is hereby WITHDRAWN and the attached order is substituted therefore.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 19 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0301. ANTONIO BERGAE ETCHINSON v. THE STATE.**

On May 14, 2001, Antonio Bergae Etchinson filed an application for discretionary appeal of the order of the Superior Court of Clayton County dismissing his motion for out of time appeal. This order was signed on March 15, 2001 by the trial judge. On May 17, 2001, this court entered an order directing Etchinson to supplement his application with a stamped "filed" copy of the order which he sought to appeal. On Tuesday, May 29, 2001, Etchinson forwarded another copy of the trial court's order without a "filed" stamp.

As Etchinson has failed to timely file a stamped "filed" copy of the order denying his motion for out of time appeal, his application is hereby DISMISSED.

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

**JUN 06 2001**

*I certify that the above is a true extract from  
the minutes of 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.  
*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 18, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0302  
RONNY E. JONES V. BRENDA DAVIS

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

95026

99CV04114

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 18 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 08, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0303

P&B TRANSPORT, INC. V. GEORGIA DEPT. OF COMMUNITY HEALTH

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

96026

2000CV23209

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 8 2001**

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

*W. Z. Martin, II*

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

ATLANTA, JUNE 21, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0303

P&B TRANSPORT, INC. V. GEORGIA DEPT. OF COMMUNITY HEALTH

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

96-026  
2000CV23209

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 21 2001**

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

*W. Z. Mathis, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 10, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1503**

**P&B TRANSPORT v. GEORGIA DEPARTMENT OF COMMUNITY HEALTH**

Clerk, Supreme Court of Georgia

Case No. A01D0303

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**JUL 10 2001**

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

MAY 24 2001

*The Court of Appeals hereby passes the following order:*

## **A01D0304. Rosenthal v. Rosenthal**

Richard Barry Rosenthal filed this application for discretionary appeal from the superior court's final judgment and decree in this divorce action. 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). Accordingly, this case is ordered TRANSFERRED to the Supreme Court.

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

MAY 24 2001

*I certify that the above is a true extract from  
the minutes of 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.  
*W. Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*     **JUL 24 2001**

**A01D0305. RICHARD PAGE v. THE STATE**

On July 6, 2001, Richard Page filed his motion for reconsideration of this Court's June 19, 2001 order dismissing this discretionary application docketed as A01D0305 because it was untimely.<sup>1</sup> Court of Appeals Rule 37 (b) requires motions for reconsideration to be filed within ten days of judgment. Page's motion for reconsideration in A01D0305 is thus untimely, and the motion is accordingly hereby DISMISSED.

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

**JUL 24 2001**

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

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

*W. Z. Martin, Jr.*  
....., Clerk.

---

<sup>1</sup>In his motion for reconsideration, Page points out that the trial court vacated the order appealed from in A01D0305, and reentered this order on May 22, 2001. Page's attorney in fact filed another discretionary application from this reentered order, docketed in this Court as A01D0334. This application was timely and thus was considered on the merits, but was denied by order of this Court dated June 27, 2001.

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

ATLANTA, JUNE 07, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0306  
CAMBRIDGE BUILDING, ET AL V. CHARLES E. SCHMIDT

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

99026

01CV369C 01CV661C 557-40-4743

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 7 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 01, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0307  
STACY D. MORIN V. GEORGE H. PERRY

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

97026

01075

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **JUN 1 2001**

*I certify that the above is a true extract from  
the minutes of 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,

*The Court of Appeals hereby passes the following order:*

## **A01D0308. Schantz v. Thompson**

Dennis Schantz filed this application for discretionary appeal seeking review of the trial court's order modifying a provision in the parties' Final Divorce Judgement and Decree. Because this action is ancillary to the parties' divorce proceeding, a matter within the Supreme Court's appellate jurisdiction, it is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979)

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

**JUN - 8 2001**

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

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

*W. Z. Mathis, Jr.*, Clerk.

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

ATLANTA, JUNE 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0309  
JAMAL RAHEIN RADFORD V. THE STATE

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

92026

2485824830

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 6 2001**

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

*John Z. Martin, Jr.*

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

ATLANTA, JUNE 19, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0310  
DWIGHT ANTHONY GODDARD 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.

71026

38626

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 19 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

*Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.*

**Paid Date:** June 28, 2001

A01D0311

Received of GEORGIA COURT OF APPEALS,  
costs in the amount of \$80.00 in Case No. S01D1446:  
JULIAN RABON v. CLAUDIA BROWN, f/k/a RABON

Sherie M. Welch, Clerk

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

*Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.*

**Paid Date:** June 7, 2001

Received of GEORGIA COURT OF APPEALS,  
costs in the amount of \$80.00 in Case No. S01D1342;  
ORLANDO FRANCISCO LOPEZ v. ALICE HAMMOCK LOPEZ

A01D0312

Sherie M. Welch, Clerk

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

ATLANTA, MAY 29, 2001

*The Court of Appeals hereby passes the following order:*

**Case No. A01D0312**

**ORLANDO FRANCISCO LOPEZ V. ALICE HAMMOCK LOPEZ**

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*

**MAY 29 2001**

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

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

*[Handwritten Signature]* Clerk.

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

ATLANTA, JUNE 27, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0313

ZELMA GAITHER V. THE HOUSING AUTHORITY OF THE CITY OF GAINESVILLE

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

94027

98CV2433B

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

**JUN 27 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 18, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0314

UNITED WASTE SERVICE INC. ET AL V. CLEON PATTERSON

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

95027

01CV178M 260-92-5223

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 18 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JULY 06, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0314

UNITED WASTE SERVICE INC. ET AL V. CLEON PATTERSON

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

95-027  
01CV178M      260-92-5223

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 06 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 02 2001**

**A01D0314. United Waste Service, Inc. et al. v. Cleon Patterson**

Upon review of the applicants' motion for reconsideration, it is ordered that the motion be denied. Respondent's motion for sanctions is likewise denied.

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

**AUG 02 2001**

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

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

*W. Z. Martin, Jr.* Clerk.

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 25, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1604**

UNITED WASTE SERVICE, INC., et al. v. CLEON PATTERSON

Clerk, Supreme Court of Georgia

Case No. A01D0314

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0315  
MEAD PACKAGING COMPANY V. MADGE F. WIGLEY

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

96027

2000CV33618 259-50-8563

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 21 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 15, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0316  
DONNA R. JORDAN V. LIN PROPERTIES, INC.

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

90027

98SC0548

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUN 15 2001

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 26, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0317  
RONNY WEST V. D & B DELIVERY SERVICE, INC.

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

98027

01V0598 256-23-2051

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 27 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 3, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1506**

RONNY WEST v. D&B DELIVERY SERVICE, INC.

Clerk, Supreme Court of Georgia

Case No. A0D0317

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0318. Kennemer v. Kennemer**

Robert Marshall Kennemer filed this application for discretionary appeal seeking review of the trial court's order denying his Motion to Amend and Clarify Final Judgment and Decree of Divorce as Amended and for Declaratory Judgment. However, because Kennemer's application seeks to appeal an order requesting an interpretation of the parties' underlying divorce decree, it is an action ancillary to the parties' divorce proceeding, which is a matter within the Supreme Court's appellate jurisdiction. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (254 SE2d 80) (1979). Accordingly, this application is hereby TRANSFERRED to the Supreme Court.

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

**JUN -7 2001**

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

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

*W. Z. Matthews, Jr.*, Clerk.

97-027

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0319. Gold Group of Atlanta, Inc. v. Campbell**

Gold Group of Atlanta, Inc. d/b/a The Gold Club filed this application for discretionary appeal seeking review of the trial court's order denying its petition for writ of mandamus, writ of certiorari and declaratory judgment. However, because the Supreme Court has jurisdiction over decisions in mandamus cases, this application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, Par. III (5); OCGA § 9-6-28 (b).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN - 7 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

*Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.*

**Paid Date:** June 7, 2001

A0100319

Received of GEORGIA COURT OF APPEALS,  
costs in the amount of \$80.00 in Case No. S01D1341:

GOLD GROUP OF ATLANTA, INC., d/b/a THE GOLD CLUB v. BILL CAMPBELL,  
MAYOR, et al.

Sherie M. Welch, Clerk

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

ATLANTA, JUNE 21, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0320  
FOCUS ENTERTAINMENT V. HON. GENEVIEVE 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.

93027

2000CV29119

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 21 2001**

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

*W. Z. Martin, Jr.*

**Appeals  
State of Georgia**

ATLANTA, JUNE 27, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0321  
CITY OF ALBANY ET AL V. RUSSELL C. MARSH

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

92027

256-35-6738

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 27 2001**

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



CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 13, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1544**

CITY OF ALBANY et al. v. RUSSELL C. MARSH

Clerk, Supreme Court of Georgia

Case No. A01D0321

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JULY 02, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0322  
LEA ELKINS CREWS V. JOSEPH FRANKLIN SWINT

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.

71027

00CV2778C

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 02 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JULY 03, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0323

THE PROFESSIONAL STANDARDS COMMISSION V. MARY DENHAM

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

00CI2115

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 03 2001**

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

*W. Z. Martin, III*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

## **A01D0324. JOHN MILES FOSTER v. THE STATE**

John Miles Foster seeks to appeal the dismissal of his extraordinary motion for new trial in order to challenge the convictions entered on his guilty plea. The Clerk of the Clayton County Superior Court has informed this Court that Foster was convicted of murder, among other charges. Because Foster was convicted of murder, his application is hereby TRANSFERRED to the Supreme Court for disposition as required under *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984). But see *Weatherbed v. State*, 271 Ga. 736 (524 SE2d 452) (1999) (Benham, C. J., specially concurring).

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 12 2001**

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

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

*[Handwritten Signature]*, Clerk.

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

ATLANTA, JULY 03, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0325  
CHOL UNG KIM V. ORIX CREDIT ALLIANCE, INC.

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

94028

98A75551

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 03 2001**

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

*W. Z. Martin, Jr.*



**SUPREME COURT OF GEORGIA**  
Case No. S01C1840

Atlanta

MAY 06 2002

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed.

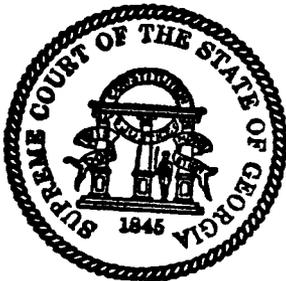
LINDA SULLIVAN AKERS v. RUTH KENNEDY

Petitioner seeks a writ of certiorari from the denial of a discretionary application in this probate case. Because petitioner was entitled to a direct appeal from the order of the probate court, see OCGA § 15-9-123, this case is remanded to the Court of Appeals with direction that it grant the discretionary application pursuant to OCGA § 5-6-35 (j). All the Justices concur, except Carley, J., who dissents.

2002 JUN 21 AM 11:27  
CLERK'S OFFICE  
ATLANTA, GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta



I 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. Stuehler*, Chief Deputy Clerk

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S01C1840

Atlanta, May 6, 2002

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LINDA SULLIVAN AKERS v. RUTH KENNEDY

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ is granted and remanded to the Court of Appeals.

All the Justices concur, except Carley, J., who dissents.

Court of Appeals Case No. A01D0326



RECEIVED  
2002 JUN 21 AM 11:18  
CLERK OF THE SUPREME COURT  
ATLANTA, GEORGIA

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 29, 2002

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.

*Nathaniel J. Middleton* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JUN 26 2002**

**A01D0326. LINDA SULLIVAN AKERS v. RUTH KENNEDY.**

By order dated May 6, 2002, the above-captioned application for discretionary appeal was remanded to this Court by the Supreme Court with direction that the application be granted under OCGA § 5-6-35 (j) as Linda Sullivan Akers was entitled to a direct appeal of the order of the probate court under OCGA § 16-9-123. Accordingly, the above-captioned discretionary application is ordered GRANTED under OCGA § 5-6-35 (j).

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

**JUN 26 2002**

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

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

*W. Z. Martin, Jr.*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**AUG - 1 2001**

**A01D0326. IN RE: ROBERT RUSSELL AKERS**

On June 8, 2001, the above application was docketed in this Court. On July 2, 2001, the Court of Appeals transferred the above application to the Supreme Court of Georgia. Thereafter, on July 31, 2001, the Supreme Court of Georgia re-transferred the application to the Court of Appeals.

Pursuant to the order of the Supreme Court of Georgia dated July 31, 2001, the above application is hereby REINSTATED. The respondent has ten (10) days from the date of this order to file respondent's application, should respondent wish to do so. The Court shall issue an order within 30 days of this date granting, denying or dismissing the application.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG - 1 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,            AUGUST        16, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0326  
IN RE ROBERT RUSSELL AKERS

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

95028

95A13995

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 16 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0327. ROBERT BOLSTON v. THE STATE.**

Robert Bolston filed this application for discretionary appeal seeking review of the trial court's order revoking his probation. The order Bolston seeks to appeal was filed in the trial court on May 7, 2001. Bolston's application was filed in this Court on June 8, 2001. An application for discretionary appeal must be filed within 30 days after entry of the order complained of. OCGA § 5-6-35 (d). Bolston's failure to file the application within 30 days after entry of the order complained of deprives this Court of jurisdiction to consider the application. Therefore, this application is ordered DISMISSED.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 26 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, JUL 10 2001

*The Court of Appeals hereby passes the following order:*

**A01D0328. ELLIS v. ELLIS.**

Linda Pederson Ellis seeks a discretionary appeal from an order denying her petition for a change of custody and child support. Because the order complained of did not dispose of all remaining issues in the case, Ellis was required to comply with the additional requirements of the interlocutory appeal procedure, OCGA § 5-6-34 (b). *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Because Ellis failed to follow the proper procedure here, her application is hereby *dismissed* as premature.

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

JUL 10 2001

*I certify that the above is a true extract from  
the minutes of 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, JULY 03, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0329  
JAMES LEROY MCKEEHAN V. THE STATE

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

98028  
42347J

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

**JUL 03 2001**

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

*W. Z. Hunt, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUL 02 2001**

**A01D0330. WILLIAM D. MOORE v. THE STATE**

William D. Moore filed this application for discretionary appeal on June 7, 2001, from the superior court's April 27, 2001 order denying his "Motion to Vacate/Set Aside/Modify/Correct Illegal Sentence." The denial of a motion to vacate a void or illegal sentence is appealable as a matter of right and a trial court can correct a void sentence at any time. See *Williams v. State*, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. An application for discretionary appeal, however, must be filed within 30 days after entry of the order sought to be appealed. OCGA § 5-6-35 (d). The application in this case was filed 41 days after the order was entered. This Court lacks jurisdiction to consider an untimely appeal. Accordingly, this application is hereby ordered DISMISSED.

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

**JUL 02 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, JUNE 28, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0331  
BARBARA ELLEN LOUK BRITTON V. THOMAS L. LOUK

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

97028

79054J

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 28 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JUNE 29, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0332  
FAYE C. ADKINS V. CITY OF MACON ET AL

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

93028

01CV12423

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 29 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0333. CARE OPTIONS, INC. v. T. HUNTER CONSULTING.**

Care Options, Inc., seeks a discretionary appeal from a magistrate court order denying its motion to set aside a default judgment. A judgment entered in the magistrate court may only be reviewed in the state court or in the superior court as provided under OCGA § 15-10-41. *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). The application is therefore *dismissed* for lack of jurisdiction.

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

**JUL 06 2001**

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

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

*[Handwritten Signature]*, Clerk.

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

ATLANTA, JUNE 27, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0334

RICHARD PAGE V. THE STATE

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

71028

CR972146FR

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 27 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JULY 12, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0335

PEACOCK SHEET METAL V. GEORGE P. JENKINS ET AL

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

91028

01CV12746

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 12 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0336. BECKY MIDKIFF v. BULAT ET AL.**

Becky Midkiff, a nonparty to the underlying divorce proceedings seeks discretionary appeal of the order of the superior court denying her motion to quash subpoena and for a protective order. On August 9, 2000, Joseph Bulat filed a complaint for divorce against Starla Bulat. Starla Bulat answered and counterclaimed. On February 23, 2001, Becky Midkiff was served with a subpoena to attend a deposition and a subpoena for production of documents and notice to produce. Midkiff filed a nonparty motion to quash subpoena and for a protective order. On May 17, 2001, the trial court denied Midkiff's motion.

As this discovery issue is ancillary to a divorce proceeding, jurisdiction over the application for discretionary appeal is vested in the Supreme Court of Georgia. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); see *Eickhoff v. Eickhoff*, 263 Ga. 498, 499 (1) (435 SE2d 914) (1993) (on appeal from judgments and orders in domestic relations cases, Supreme Court has jurisdiction over all divorce and alimony cases); see also, *Rebich v. Miles*, 264 Ga. 467, 469 (448 SE2d 192) (1994) (underlying subject matter generally controls over the relief sought in determining the proper procedure to follow to appeal). Accordingly, the above-captioned application is hereby TRANSFERRED to the Supreme Court for appropriate appellate disposition.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 26 2001**

*I certify that the above is a true extract from  
the minutes of 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, JULY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0337  
REX NEWTON V. THE JAMES GROUP ET AL

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

94029

011173205 255-88-3048

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 10 2001

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

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

*W. Z. Martin, Clerk*

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

ATLANTA, JULY 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0338

VULCAN MATERIALS COMPANY V. GA DEPARTMENT OF REVENUE ET AL

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

95029

00CV13014

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 06 2001**

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

*John Z. Martin, Jr.*

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

ATLANTA, JULY 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0339  
KENNETH LEE MCDANIEL 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.

96029

47140

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 06 2001

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

*W. Z. Martin, Jr.*

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

ATLANTA, JULY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0340  
CARNELL A. SMITH V. TONI W. ODUM

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

90029

98127449

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 10 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** July 30, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1628**

TONI W. ODUM v. CARNELL A. SMITH

Clerk, Supreme Court of Georgia

Case No. A01D0340

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**JUL 30 2001**

Clerk, Court of Appeals of Georgia

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

ATLANTA, JULY 03, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0341

RON SHIVES, D/B/A BEDS DIRECT INC V. MAURICE D. EDWARDS

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

98029

01CV211

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 03 2001**

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin, Jr.*

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUL 11 2001**

**A01D0342. Kenneth Lee McDaniel v. The State**

Because it appears that the above styled application is merely duplicative of that filed in A01D0339, this application is hereby DISMISSED as superfluous.

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

**JUL 11 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, JULY 02, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0343  
ERIC SHAVER V. THE CITY OF PEACHTREE 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.

97029

2000V0108

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 02 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUN 29 2001**

## **A01D0344. Little v. The State**

Melvin Little filed this application for discretionary appeal seeking review of the trial court's denial of his Motion for the Return of Personal Property. The order Little seeks to appeal was entered by the trial court on April 26, 2001. Little's application was filed with this Court on June 11, 2001. An application for discretionary appeal must be filed within 30 days after entry of the order complained of. OCGA § 5-6-35 (d). Little's failure to file this application within 30 days after entry of the order complained of deprives this Court of jurisdiction to consider the application. Accordingly, this application is ordered DISMISSED.

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

**JUN 29 2001**

*I certify that the above is a true extract from  
the minutes of 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, JULY 24, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0344

MELVIN LITTLE V. THE STATE

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

93-029  
97CR03952

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

**JUL 24 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA, JULY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0345  
CLARENCE P. LOTT V. ARRINGTON & HOLLOWELL

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.

92029

00GR003002 00GR003009

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 10 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JUL 09 2001**

**A01D0346. RALPH J. GOODWYN v. DEWEY CARTER ET AL.**

Ralph J. Goodwyn seeks a discretionary appeal of the order of the superior court holding that said court lacked jurisdiction to rule on Goodwyn's motion to reinstate and reactivate the above-captioned suit for damages after it had been automatically dismissed under OCGA § 9-11-41 (c). This case is not among the type of cases that require an application for discretionary appeal under OCGA § 5-6-35 (a) & (b). Neither is this case among the classes of case over which this court has appellate jurisdiction under OCGA § 5-6-35 (j) as Goodwyn has also filed a notice of appeal of this case.

Accordingly, this application is hereby DISMISSED.

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

**JUL 09 2001**

*I certify that the above is a true extract from  
the minutes of 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,            JULY            13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0347

JOAN TODD V. PETER CASCIANO

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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

91029

00A07845

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 13 2001**

*I certify that the above is a true extract from  
the minutes of 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, JULY 17, 2001

*The Court of Appeals hereby passes the following order:* **JUL 17 2001**

APPLICATION NO. A01D0348

PROMOVE, LLC V. RCI PEACHTREE ASSOCIATES, LLC

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

70029

2000CV25923

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **JUL 17 2001**

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

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

*W. Z. Mathis, Jr.* Clerk.

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

ATLANTA, JULY 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0349  
ALLISON BEAMAN V. THE CITY OF PEACHTREE 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.

94030  
2000CV1003

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **JUL 06 2001**

*I certify that the above is a true extract from  
the minutes of 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 Z. Martin, Jr.*

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

ATLANTA, JULY 17, 2001

*The Court of Appeals hereby passes the following order:* **JUL 17 2001**

APPLICATION NO. A01D0350

COBB COUNTY COMMUNITY SERVICES BOARD V. INEZ B. BROWN

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

95030

001658228

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 17 2001**

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

*John Z. Martin, Jr.*

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

ATLANTA, JULY 13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0351  
DYMARIUS MCFARLIN V. JERRY STOVER, SR.

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

96030

99CV2463B

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

**JUL 13 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

<b>PROPOSED ORDER</b> (A01D0352.90) July 2, 2001 (by Williams)	
<b>AGREE</b>	<b>DISAGREE</b>

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**A01D0352. THOMAS GREGORY GUTHERIE v. AUDREY CRISTINA GUTHERIE.**

Thomas Gregory Guthrie seeks an appeal from an order awarding attorneys' fees in this divorce case. Although Guthrie has filed his application with this Court, we conclude that appellate jurisdiction lies in the Supreme Court which 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 Court lacks jurisdiction to consider this application. *Keeler v. Keeler*, 263 Ga. 151 (439 SE2d 5) (1883); *Shapiro v. Lipman*, 259 Ga. 85 (377 SE2d 673) (1989); *Odem v. Odem*, 241 Ga. 451 (246 SE2d 308) (1978).

Furthermore, a motion for attorney's fees and expenses is ancillary to the underlying divorce case. *Hallman v. University*, 225 Ga. App. 247 (483 SE2d 362) (1997); see also *Griffin v. Griffin*, 243 Ga. App. 149 (253 SE2d 80) (1979) (holding in an analogous context that "an application for contempt to enforce the divorce decree

is ancillary to, and an incident of, the divorce action, and jurisdiction to hear an appeal of this nature is in this court"). Therefore, this application is TRANSFERRED to the Supreme Court.

*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.

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

*Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.*

**Paid Date:** June 29, 2001

A01D0352

Received of GEORGIA COURT OF APPEALS,  
costs in the amount of \$80.00 in Case No. S01D1452:

THOMAS GREGORY GUTHRIE, JR. v. AUDREY CRISTINA GUTHRIE

Sherie M. Welch, Clerk

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

ATLANTA, JULY 23, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0353

JERRY SPENCER V. THE STATE

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

98030

96CR091 96CR29

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 23 2001**

*I certify that the above is a true extract from the minutes of 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, JULY 02, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0354

DANIEL BURGESS V. POPPELL-ELLER, INC. ET AL

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

99030

0100032 261-92-6990

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 02 2001**

*I certify that the above is a true extract from the minutes of 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,

*The Court of Appeals hereby passes the following order:*

**JUL 03 2001**

**A01D0355. ROGER C. DAY v. THOMAS GONZALEZ ET AL.**

On June 7, 2001, Roger C. Day, pro se, applied pursuant to the Prisoner Litigation Reform Act, OCGA § 42-12-1 et seq, for discretionary appeal of the superior court's April 26, 2001 order dismissing his civil complaint. An application for discretionary appeal must be filed with this Court within 30 days of entry of the order appealed from. OCGA § 5-6-35 (d); OCGA § 42-12-8. Day's application was filed 42 days after the order was entered. Because Day's application was untimely filed, this Court lack jurisdiction to consider it. Accordingly, it is hereby ordered DISMISSED.

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

**JUL 03 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, JULY 24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0356

DEBBIE PEARLMAN V. JAY EVANS

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

93030

01459399

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 24 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

Sherie M. Welch, Clerk

(404) 656-3470

*Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.*

**Paid Date:** October 25, 2001

Received of GEORGIA COURT OF APPEALS,  
costs in the amount of \$80.00 in Case No. S02D0210:  
MADISON T. BROWN v. BETSY HAMAN

A01D0357  
A01D0358  
A01D0359

Sherie M. Welch, Clerk

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

ATLANTA, JULY 17, 2001

*The Court of Appeals hereby passes the following order:*

**JUL 17 2001**

APPLICATION NO. A01D0359  
MADISON T. BROWN V. BETSY HAMAN

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

71032

01CV110

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 17 2001**

*I certify that the above is a true extract from the minutes of 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, JULY 26, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0360  
TRACY VAN McENTYRE V. THE STATE

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

91030

12036

12251

13146

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 26 2001**

*I certify that the above is a true extract from the minutes of 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,

*The Court of Appeals hereby passes the following order:*

**JUL 09 2001**

**A01D0361. Judith F. Hurt v. Norwest Mortgage, Inc.**

Judith F. Hurt filed this application for discretionary appeal from the superior court's order granting a writ of possession and attorneys fees to Norwest Mortgage, Inc. Appeals from cases involving dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less must be brought by application and not by direct appeal. OCGA § 5-6-35 (a) (3). It does not appear, however, that this case involves the issue of rent at all. Thus, Hurt was not required to file an application for discretionary review. This application is hereby GRANTED pursuant to OCGA § 5-6-35 (j). Hurt 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 record transmitted to the Court of Appeals.

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

**JUL 09 2001**

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

*W. Z. Hunt, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

JUL 13 2001

**A01D0362. STACY PAUL WADDELL v. THE STATE**

Stacy Paul Waddell, pro se, filed this application for discretionary appeal from the trial court's May 23, 2001 order denying his motion for correction of sentence. The denial of a motion to correct an illegal sentence is appealable as a matter of right, and a trial court can correct an illegal sentence at any time. See *Williams v. State*, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. An application for discretionary appeal, however, must be filed within 30 days after entry of the order sought to be appealed. OCGA § 5-6-35 (d). The application in this case was filed 40 days after the order was entered. This Court lacks jurisdiction to consider an untimely appeal. Accordingly, this application is hereby ordered DISMISSED.

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

JUL 13 2001

*I certify that the above is a true extract from  
the minutes of 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.  
*W. Z. Martin, Jr.*

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

ATLANTA, JULY 31, 2001

*The Court of Appeals passed the following order:*

Case No. A01D0362

STACY PAUL WADDELL V. THE STATE

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

94-031  
CR962247KA

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

**JUL 31 2001**

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

*W. Z. Mathis, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUL 13 2001**

**A01D0363. STACY PAUL WADDELL v. WALTER S. RAY ET AL.**

Stacy Paul Waddell, pro se, filed this discretionary application from the superior court's order denying his petition for writ of mandamus. The Supreme Court, however, has jurisdiction over decisions in mandamus cases. See Ga. Const. of 1983, Art. VI, § VI, Par. III (5); OCGA § 9-6-28 (b); *Settle v. McWhorter*, 203 Ga. 93 (1) (45 SE2d 210) (1947). This application is accordingly hereby TRANSFERRED to the Supreme Court for disposition.

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

**JUL 13 2001**

*I certify that the above is a true extract from  
the minutes of 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.  
*W. Z. Martin, Jr.*

95-031

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* JUL 12 2001

**A01D0364. GEORGIA DEPARTMENT OF HUMAN RESOURCES v. LEO SCOTT HATFIELD.**

The Georgia Department of Human Resources seeks a discretionary appeal of the order of the superior court denying its complaint against defendant Leo Scott Hatfield for recovery of TANF benefits paid by the department for child support.

The marital status of Kimberly Rene Hatfield and Leo Hatfield was set aside and dissolved in a Consent Order and Termination of Parental Rights, entered by the Superior Court of Dougherty County on December 29, 1999. At the time of this order, Kimberly Hatfield was pregnant with the child of Leo Hatfield. The consent order expressly granted the parties a divorce a vinculo matrimonii and terminated any and all parental rights that Leo Hatfield would acquire upon the birth of said child. The consent order further provided that based on the consent of the parties and the fact that Leo Hatfield was surrendering his parental rights, any back child support due and owed shall be forgiven Leo Hatfield and Kimberly Hatfield shall take no further action regarding the collection of said child support upon entry of an order granting this decree and terminating the parental rights of Leo Hatfield.

Subsequently, Kimberly Hatfield began receiving TANF benefits and medicaid for the child. As a result, the Department of Human Resources filed a complaint for recovery of child support seeking reimbursement of TANF benefits under OCGA § 19-11-6. OCGA § 19-11-6 (a) provides that by accepting public assistance for or on behalf of a child, the recipient shall be deemed to have made an assignment to the department of the right to any child support owned for the child. The department shall be subrogated to the right of the child or the person having custody to initiate any

support action existing under the laws of this state and to recover any payment ordered by the courts of this or any other state.

During the prosecution of this civil case, Leo Hatfield asserted that suit against him was barred by virtue of the provisions in the consent order. The Department of Human Resources contended that the consent order was invalid. The superior court held that although the consent order did not specifically mention future child support, it nevertheless was a final determination of Leo Hatfield's duty to provide any child support and therefore, any enforcement action against Leo Hatfield was barred.

In its application for discretionary appeal, the Department of Human Resources continues to contest the validity of the consent order and contends that it is void on its face. Resolution of this hybrid case on its merits would inextricably require an appellate adjudication of the validity of the order granting the parties a total divorce and, if that order is found to be valid, would require judicial construction of its terms. Accordingly, this application appears to fall within the appellate jurisdiction of the Supreme Court of Georgia and is hereby TRANSFERRED to that appellate court for appropriate disposition. See Const. of Ga. 1983, Art. VI, Sec. VI, Par. 3 (3) & (6), Art. VI, Sec. I, Par. VII.

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

**JUL 12 2001**

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

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

*W. Z. Smith, Jr.*, Clerk.

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

ATLANTA,            JULY            13, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A01D0365  
LUCENT TECHNOLOGIES, INC. V. PAMELA HERRINGTON

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.

96031

00A113824

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 13 2001**

*I certify that the above is a true extract from  
the minutes of 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,                      JULY                      27, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A01D0366  
OSCAR VERNON PITTS ET AL V. CITY OF ROME 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.

90031  
01CV216711

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*            **JUL 27 2001**

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

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

*W. Z. Hunt, Jr.* Clerk.

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

ATLANTA, JULY 23, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0367  
GREGORY STEPHEN KING V. THE STATE

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

98031

99CR00811

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 23 2001**

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

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

*W. Z. Mathis, Jr.* Clerk.

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

ATLANTA, JULY 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0368  
CLARENCE P. LOTT V. ARRINGTON & HOLLOWELL

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.

92030  
92VS63130B

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* JUL 10 2001

*I certify that the above is a true extract from  
the minutes of 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, JULY 23, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0369  
JESUS ENRIQUE BACA V. ROSSANA BACA

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.

99031  
2001CV39307

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 23 2001**

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

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

*W. Z. Martin, Jr.* <sup>Clerk</sup>

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

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUL 12 2001**

**A01D0370. KATHY BREWTON v. RONNIE CANTRELL.**

Kathy Brewton, pro se, filed this application for discretionary appeal seeking review of the trial court's order to pay rent into the registry of that court. The order Brewton seeks to appeal was entered by the trial court on May 29, 2001. Brewton's application was filed with this Court on July 10, 2001. An application for discretionary appeal must be filed within 30 days after entry of the order complained of. OCGA § 5-6-35 (d). Brewton's failure to file this application within 30 days after entry of the order complained of deprives this Court of jurisdiction to consider the application. Therefore, this application is ordered DISMISSED.

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

**JUL 12 2001**

*I certify that the above is a true extract from  
the minutes of 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.  
**W. Z. Martin, Jr.**

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

ATLANTA, AUGUST 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0371

TAMMY BROWN V. THE STATE

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

93031

1993CR1287 1993CR1291

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 6 2001**

*I certify that the above is a true extract from  
the minutes of 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,

*The Court of Appeals hereby passes the following order:*

**JUL 24 2001**

**A01D0372. Rouse v. The State**

William Rouse filed this application for discretionary appeal seeking review of the trial court's order denying his motion to negate or suspend the fine imposed on him for violation of OCGA § 40-6-391. However, because the issue Rouse seeks to appeal does not involve the validity of the revocation of his probation, it is directly appealable. Accordingly, pursuant to OCGA § 5-6-35 (j), this application is GRANTED. Rouse shall have ten days from the date of this order to file his notice of appeal. The clerk of the state 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*

**JUL 24 2001**

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

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

*W. Z. Martin, Jr.*, Clerk.

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

ATLANTA, JULY 31, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0373  
N. W. LEATHERS V. BUICE'S GARAGE

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

91031

95CV327

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 31 2001**

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

*W. Z. Martin, Jr.*

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

ATLANTA,

JULY

24, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0374

FLINT CONSTRUCTION COMPANY ET AL V. ALLISON HOLLINGSWORTH,  
ADMINISTRATOR OF THE ESTATE OF ROBIN ALICE WELLS BURKE

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

70031

01CV0609 25792-1270

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 24 2001**

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

*W. Z. Martin, Jr.*

CLERK'S OFFICE  
SUPREME COURT of GEORGIA

244 Washington Street, Room 572

Atlanta, Georgia 30334

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Sherie M. Welch, Clerk

(404) 656-3470

**Docketing Date:** August 13, 2001

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S01C1706**

*FLINT CONSTRUCTION COMPANY et al. v. ALLISON HOLLINGSWORTH, Admin., et al.*

Clerk, Supreme Court of Georgia

Case No. A01D0374

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, AUGUST 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0375

GEORGIA PACIFIC CORPORATION V. HENRIETTA MELLS

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

95032

0100436

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 6 2001**

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

*W. Z. Martz, Jr.*

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

ATLANTA, AUGUST 10, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0376  
N.L. V. BROOKS COUNTY BOARD OF EDUCATION

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

96032  
01CV86

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **AUG 10 2001**

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

*W. Z. Martini, Jr.*

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

ATLANTA, AUGUST 06, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0377

TRACY SIMMONS V. THE STATE

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

90032

50378 47598

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 06 2001**

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

*W. Z. Martin, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**AUG 07 2001**

**A01D0378. GARDEN HILLS CIVIC ASSOCIATION ET AL. v.  
METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY ET AL.**

This case involves a neighborhood association's challenge to a proposed commercial real estate redevelopment near the Lindbergh MARTA station in Atlanta. The developer filed an application with the City of Atlanta Bureau of Planning to rezone the property in question, as well as an application with the City Planning Bureau seeking to amend the City's Comprehensive Development Plan to change the land use designation for a portion of the property. The Atlanta City Council voted to approve the application.

In an eleven-count complaint, the Garden Hills Civic Association and individual neighbors living in the area sued MARTA, the City of Atlanta, and Norman Koplon in his capacity as Director of the Bureau of Buildings, seeking a declaratory judgment, preliminary and permanent injunctions relating to the development and the rezoning, and to have the rezoning set aside. Only one of the eleven counts dealt with the zoning issue. The trial court held a bench trial, however, relating solely to this count of the complaint. The court denied the relief sought by the plaintiffs on the basis, *inter alia*, that they lacked standing to challenge the rezoning. The plaintiffs filed a discretionary application from this order.

Under the Supreme Court's holding in the recent case of *Sprayberry v. Dougherty County*,<sup>1</sup> when the validity of a rezoning is challenged directly by a neighboring property owner, an order upholding the rezoning is directly appealable.

---

<sup>1</sup>273 Ga. 503 ( SE2d ) (2001).

Moreover, while it appears that this case remains pending below, the trial court effectively denied the applicants' request for preliminary and permanent injunctions relating to the rezoning. Such an order is thus directly appealable under OCGA § 5-6-34 (a) (4). Accordingly, the applicants were not required to follow the interlocutory appeals procedures of OCGA § 5-6-34 (b). Because the order appealed from is directly appealable,<sup>2</sup> this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j). The applicants 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*

**AUG 07 2001**

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

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

  
....., Clerk.

---

<sup>2</sup>*Cf. Prison Health Services, Inc. v. Georgia Dept. of Administrative Services*, 265 Ga. 810, 811 (1) (462 SE2d 601) (1995) (While an order denying an application for injunctive relief is an order subject to direct appellate review under OCGA § 5-6-34 (a) (4), it is subject to the discretionary application procedure if the underlying subject matter of the appeal is one contained in OCGA § 5-6-35.)

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

ATLANTA, JULY 30, 2001

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A01D0379  
GLEN MEDDERS V. WENDALL KESSLER ET AL

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

99032

1E909CV200T

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 30 2001**

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

*W. Z. Martin, Jr.*