

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

ATLANTA, AUGUST 31, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0001
CANDYBEC, LLC., V. J. KENNETH COX

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

95001

20030977S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 31 2005

*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.

C. Will. L. Mait, Jr.

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

ATLANTA, SEPTEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0002

PAULA J. DAVID V. BELK DEPARTMENT STORES, INC., ET AL

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

96001

200515882

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 07 2005

*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
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Clerk.

Will. L. Mart; JR

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

ATLANTA,

SEPTEMBER 08, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0003
HOWARD LITSKY V. DANA LORD SCHAUB

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

98001

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 08 2005**

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the minutes of the Court of Appeals of Georgia*

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Clerk.

Will. L. Mait...

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 31 2005**

A06D0004. LOMBARDI v. DEMING, PARKER, HOFFMAN, GREEN & CAMPBELL, P.C.

Donna L. Lombardi filed an application for appeal on August 11, 2005, from an order entered on February 19, 2004, reversing the Department of Labor's grant of unemployment benefits to her. The last date on which Lombardi could have filed a timely application for appeal with this court is March 22, 2004. Because Lombardi failed to file her application for appeal within 30 days as required under OCGA § 5-6-35 (d), her application is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

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

AUG 31 2005
*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

William L. Martini, Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 25, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0005
WALTRAUT J. HANSON V. WAL-MART

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

93001

2005V80938N

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 25 2005**

*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
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Clerk.

C. Vill. L. Mart; R

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

ATLANTA, SEPTEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0006
GREG DOZIER V. PAUL WALKER PIERCE

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.

71001

2005CV100107

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 07 2005

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Clerk.

C. Will. L. Martin, JR.

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

ATLANTA, AUGUST 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0007
WAYNE MAXWELL V. ALVIN DANIELS

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

92001

SU01CV2971

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

AUG 30 2005

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

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hereto affixed the day and year last above above written.*

Clerk.

Will. L. Martin, Jr.

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

ATLANTA, SEPTEMBER 01, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0008

MELVIN COLON V. THE STATE

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

97001

SU05CR0599

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **SEP 01 2005**

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hereto affixed the day and year last above above written.*

Clerk.

Cliff L. Martin, Jr.

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

ATLANTA, SEPTEMBER 09, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0009
IN RE: PETITION OF MATTIE VAUGHN FOR ADOPTION
MINOR CHILD N.A.V., A MINOR CHILD

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

99001

2004CV82573

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 09 2005

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

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

Clerk.

C. W. L. Martin

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

ATLANTA, SEPTEMBER 14, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0010
CASH IN ADVANCE, INC., ET AL V. JOHN W. OXENDINE, INDIVIDUALLY
AND AS INDUSTRIAL LOAN COMMISSIONER OF GEORGIA

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

91001

2002CV0178

Court of Appeals of the State of Georgia

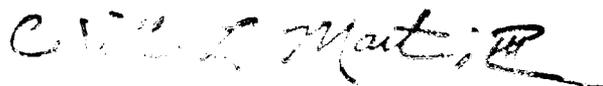
Clerk's Office, Atlanta

SEP 14 2005

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

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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: September 28, 2005

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 **S06C0192**

CASH IN ADVANCE, INC., et al. v. JOHN OXENDINE et al.

Clerk, Supreme Court of Georgia

Case No. A06D0010

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

SEP 30 2005

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

AUG 25 2005

A06D0011. Kent v. A.O. White, Jr., Consulting Engineer, Inc.

Applicant L. B. Kent seeks discretionary review of the trial court's order denying his motion to quash and its order denying his motion to recuse. Both orders Kent seeks to appeal are non-final orders which do not resolve all issues in the case. Kent was accordingly required to follow the procedures for interlocutory review as set forth in OCGA § 5-6-34 (b). *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991); *Gray v. Springs*, 224 Ga. App. 427 (481 SE2d 3) (1997). The discretionary application statute does not relieve Kent from the interlocutory review requirement of a certificate from the trial court. Kent's failure to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) 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

AUG 25 2005

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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.*

C. Will. L. 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: September 8, 2005

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 **S06C0065**

L. B. KENT v. A. O. WHITE, Jr., et al.

Clerk, Supreme Court of Georgia

Case No. A06D0011

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

SEP 09 2005

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 26, 2005

The Court of Appeals passed the following order

Case No. A06D0012

MATTHEW D. CUYLER V. MICHAEL C. THURMOND

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

90-003
051413542

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 26, 2005*

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

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

Clerk.

C. L. Matier

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: October 13, 2005

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 **S06C0271**

MATTHEW D. CUYLER v. MICHAEL L. THURMOND, Comr.

Clerk, Supreme Court of Georgia

Case No. A06D0012

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 14 2005

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0013
TIMOTHY W. STINSON 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.

95002

CR9801084063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 07 2005

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Clerk.

Will. L. Maitland

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 25 2005**

A06D0014. CITIZENS FOR ETHICAL GOVERNMENT ET AL v. THOMAS ORCHARD.

On Friday, August 19, 2005, plaintiffs Citizens For Ethical Government, et al., filed an application for discretionary appeal of the order, entered July 19, 2005, granting the motion for summary judgment of defendants Thomas Orchard, Inc., et al. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because plaintiffs filed their application in this court thirty-one days after entry of the order sought to be to appealed, the application is untimely. This Court lacks jurisdiction to consider an untimely application. See *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Therefore, the application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 25 2005

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

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

C. Vill. L. Mant; R, Clerk.

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

ATLANTA, OCTOBER 06, 2005

Honorable Court of Appeals hereby passes the following order:

A06D0014. CITIZENS FOR ETHICAL GOVERNMENT ET AL v. THOMAS
ORCHARD, INC., ET AL

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

96-002

2004CV0547SW

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 06 2005

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

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

Clerk.

Will. L. Maitland

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

ATLANTA, AUGUST 31, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0015
THE BOEING COMPANY V. SYLVIA THOMPSON

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

98002

00A097673

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

AUG 31 2005

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

Clerk.

Will. L. Martin, JR.

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

ATLANTA, SEPTEMBER 14, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0016

PUTZEL ELECTRIC CONTRACTORS ET AL V. ALLAN RAY JONES

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.

90002

05CV29173

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 14 2005

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



Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: SEP 07 2005

A06D0017. William Donald Andrews v. The State

William Donald Andrews, pro se, filed this discretionary application seeking review of the denial of his extraordinary motion to dismiss his indictment and subsequent conviction for burglary for failure to comply with his demand for a speedy trial. Andrews has already challenged his conviction by direct appeal to this court and the judgment was affirmed. *Andrews v. State*, A04A0113, decided January 22, 2004. This court's affirmance is res judicata. See *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991). Andrews is not entitled to a second appeal." *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001). Because Andrews raises no issue that could entitle him to another appeal in this Court, we lack jurisdiction to consider it. See *Daniels v. State*, 244 Ga. App. 522, 523 (536 SE2d 206) (2000) (defendant may not raise issues addressing the validity of the underlying conviction when that conviction has been previously reviewed by appeal). When a defendant attempts a second appeal of the same judgment of conviction, "it is improper and should be dismissed." *Miller v. State*, 277 Ga. 372 (589 SE2d 108 (2003)). Therefore, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 07 2005

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Will. L. Martin, Jr., Clerk.

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

ATLANTA, SEPTEMBER 16, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0018
IMPULSE MANUFACTURING ET AL V. GARY CARNES

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

71002

05CV220C

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 16 2005**

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

Clerk.

C. L. L. Mait...

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 25 2005**

A06D0019. CHAIN D'ORO, INC., D/B/A WATCHES, ETC., v. SUGARLOAF MILLS LIMITED PARTNERSHIP OF GEORGIA.

On August 18, 2005, Chain D'Oro, Inc., d/b/a Watches, Etc., filed an application for discretionary appeal of the order, entered July 19, 2005, denying its motion to set aside default judgment in a dispossessory suit. Although an application for discretionary appeal can usually be filed within 30 days of the date of entry of the order sought to be appealed, it is the underlying subject matter of an appeal that generally will control over the relief sought in determining proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this application is a dispossessory proceeding.

OCGA § 44-7-56 specifically provides that "any judgment" in a dispossessory suit is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Because this application was not filed within seven days of the date of entry of the order denying the motion to set aside, it is untimely. Compare *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522 (521 SE2d 456) (1999); see also *Miller v. Georgia Department of Public Safety*, 265 Ga. 62, 64 (453 SE2d 725) (1995); *Self v. Bayneum*, 265 Ga. 14 (453 SE2d 27) (1995). This Court lacks appellate jurisdiction over this application because it is untimely and accordingly, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 25 2005**

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C. Vill. L. Mat; R, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 30 2005**

A06D0020. MARK GRIFFIS v. RONDA E. HOBBY.

Mark Griffis has filed a discretionary application to challenge the trial court's order setting aside a consent order in his action for modification of child support and Ronda E. Hobby's counterclaim for contempt. Because the ruling complained of is ancillary to the underlying divorce case, Griffis's application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979) (holding 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"); 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).

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

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C. Will. L. Martin, Jr., Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 30 2005**

**A06D0021. JOANN WILLIAMS v. GEORGIA DEPARTMENT OF LABOR,
ET AL.**

Joann Williams filed an application for discretionary appeal in this court on August 24, 2005, from an order entered on July 20, 2005, affirming an administrative decision denying her unemployment benefits. Because Williams failed to file her application for appeal in this court within 30 days of the entry of the order complained of as required under OCGA § 5-6-35 (d), Williams's application is hereby DISMISSED for lack of jurisdiction. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 30 2005

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C. Will. L. Mait, Jr., Clerk.

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

ATLANTA,

SEPTEMBER 20, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0022

KIRK DEYOUNG SEELEY V. KEROL DIANNE' SEELEY

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

91002

04A049898

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 20 2005

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



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

ATLANTA, SEPTEMBER 16, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0023

RICHARD SPURLIN V. MADISON COUNTY BOARD OF COMMISSIONERS ET AL

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

94002

05MV515T

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 16 2005

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Clerk.

Will L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 19 2005**

A06D0024. JAMES RICKY DALTON v. THE STATE.

James Ricky Dalton filed this application for discretionary appeal seeking an appeal of the trial court's "Order Denying Petitioner's Extraordinary Motion for a New Trial." Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order, as required by Court of Appeals Rule 31 (d). On August 29, 2005, this Court entered an order stating that Dalton must supplement his application with a stamped "filed" copy of the order sought to be appealed within 10 days or the application would be dismissed. Dalton responded by attempting to file another copy of the order sought to be appealed, but that copy also lacked an official filing stamp establishing the date that it was filed with the clerk of the Superior Court of Whitfield County. Because no stamped "filed" copy of the order has been filed with this Court within the time allotted, this application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 19 2005**

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C. Vill. L. Mait; 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: September 29, 2005

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 **S06C0198**

JAMES RICKY DALTON v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A06D0024

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 04 2005

Clerk, Court of Appeals of Georgia

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

ATLANTA, SEPTEMBER 12, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0025
MICHAEL MYDELL V. LORETTA BARNES ET AL

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

70002

1E98DR104M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 12 2005

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

William L. Martin, Jr.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 02 2005

A06D0026. AARON LEVON JOHNSON v. THE STATE.

Aaron Levon Johnson seeks an appeal from an order denying his “Motion to Correct Void Judgment.” Johnson’s direct appeal was affirmed by this court in *Johnson v. State*, Appeal No. A05A0598 (2005 Ga. App. LEXIS 671) (June 28, 2005). Because we conclude that what Johnson seeks here in effect is an unauthorized second appeal challenging his convictions, the application is improper and is therefore *DISMISSED* for lack of jurisdiction. *Jones v. State*, 278 Ga. 669 (604 SE2d 483) (2004); *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001).

*Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta* **SEP 02 2005**

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Will. L. Mart; JR, Clerk.

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

ATLANTA, SEPTEMBER 20, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0027
CASWELL, INC., D/B/A TCB TRANSPORT ET AL V. ERNEST JERRY
SPENCER

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.

96003

05V0541

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 20 2005

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

Cheryl L. Martin, JR

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

ATLANTA, SEPTEMBER 26, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0028

GAIL STANLEY V. DALTON WHITFIELD BANK, INC

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

98003

88761

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 26 2005**

*I certify that the above is a true extract from
the minutes of the 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, SEPTEMBER 19, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0029
SHERRY KORNER V. EDUCATION MGMT. CORP., 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.

93003

2005CV100104

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 19 2005

*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.

Will. L. Martin, III

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

ATLANTA, SEPTEMBER 28, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0030
STEVEN DOUGLAS CANUP V. THE STATE

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

71003

2002CR133

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

SEP 28 2005

*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.

Will. L. Martin, Jr.

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

ATLANTA, SEPTEMBER 16, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0031
TRAX-FAX, INC., ET AL V. BUDDY F. HOBBA

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

92003

05CV37883

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 16 2005**

*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.

Will L. Martin, Jr.

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

ATLANTA, SEPTEMBER 16, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0032
MICHAEL A. KING ET AL V. RODNEY C. LUSK

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.

97003

12186

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 16 2005**

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

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hereto affixed the day and year last above above written.*

Clerk.

C. W. L. Mait; R

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

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 19 2005

A06D0033. ROSHY DREW v. ISTAR FINANCIAL, INC.

Plaintiff Roshy Drew filed this timely application for discretionary appeal seeking review of an order granting summary judgment to defendant Istar Financial, Inc. in this premises liability case. No provision of OCGA § 5-6-35 (a) is applicable in this case. Therefore, the order granting summary judgment is subject to direct appeal. OCGA § 9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). Because the order is directly appealable, this application is GRANTED pursuant to OCGA § 5-6-35 (j).

Roshy Drew shall have 10 days from the date of this order to file a notice of appeal. The Clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.

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

SEP 19 2005

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 03 2005**

A06D0034. BATES v. THE STATE.

Mark Allen Bates filed an application for appeal on September 2, 2005, from an order entered May 6, 2005, revoking the balance of his probation. Bates filed a timely motion for new trial on June 6, 2005. Although Bates informs the Court that his motion for new trial was denied on August 3, 2005, no such order is included with Bates's exhibits. Inquiries by clerk's office personnel have confirmed that no such order has yet been entered in the court below. Because the order complained of will not be ripe for appellate review until the trial court has disposed of his motion for new trial, Bates's application is hereby *dismissed* without prejudice as premature. Bates may refile his application within 30 days after an order is entered denying his motion for new trial.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **OCT 03 2005**

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

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

Will. L. Martin, JR. , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 09 2005

A06D0035. Tara Lynn Cooper f/k/a Tara Lynn Kendrick v. Ronald Jeremy Kendrick

Tara Lynn Cooper filed this application seeking discretionary review of the trial court's Temporary Order modifying custody. In the order Cooper seeks to appeal, the superior court expressly reserved the issue of attorney fees for later determination. The order also imposed a "temporary" change in custody for up to one year. The transcript of the hearing makes it clear that the parties agreed that the change in custody would be temporary and could be modified at any time. Thus, the record on appeal reveals that the superior court, in fact, has not made a final ruling in this case. "Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court's final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court." *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995). Because the order appealed from is not a final order, Cooper was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. Accordingly, this Court is without jurisdiction to consider this appeal, which is hereby ordered DISMISSED.

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

SEP 09 2005

*I certify that the above is a true extract from
the minutes of 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, 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: September 14, 2005

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 **S06C0095**

TARA LYNN COOPER v. RONALD JEREMY KENDRICK

Clerk, Supreme Court of Georgia

Case No. A06D0035

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

SEP 16 2005

Clerk, Court of Appeals of Georgia

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

ATLANTA,

The Court of Appeals hereby passes the following order:

SEP 16 2005

A06D0036. MATTHEW D. CUYLER v. BOBBY GLASPIE ET AL.

Matthew D. Cuyler, who is proceeding *pro se*, has filed this application for discretionary appeal from the superior court's order dismissing his complaint against Bobby Glaspie and Theresa Byess on the basis that it failed to state a claim upon which relief may be granted. Because it does not appear that the judgment at issue here is subject to the discretionary appeal procedure, Cuyler's application is hereby *granted* as OCGA § 5-6-35 (j) requires. Cuyler shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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*

SEP 16 2005

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

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

ATLANTA, SEPTEMBER 14, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0037
C.T. HARRIS, INC., V. CALVIN L. ROBERSON

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

95004

39592

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 14 2005**

*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.

Will L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 12 2005**

A06D0038. NORTHEAST ATLANTA BONDING COMPANY v. SONNY PERDUE, GOVERNOR OF THE STATE OF GEORGIA.

Northeast Atlanta Bonding Company seeks to appeal a judgment of forfeiture of an appearance bond. Although the amount of the forfeited bond is less than \$10,000.00, the underlying action is not an action for damages. Therefore, the discretionary application procedure of OCGA § 5-6-35 (a) (6) does not apply. This application is *granted* as required under OCGA § 5-6-35 (j). Northeast Atlanta Bonding Company shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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*

SEP 12 2005

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the minutes of the Court of Appeals of Georgia.*

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

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

ATLANTA, OCTOBER 18, 2005

The Court of Appeals passed the following order

Case No. A06D0039

ARLANDA SMITH V. THE STATE

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

98-004
2005CV103960

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 18, 2005*

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

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: October 11, 2005

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 **S06C0254**

ARLANDA SMITH v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A06D0039

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 14 2005

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 27 2005**

A06D0040. FELDER v. BANK OF AMERICA, N.A.

Gary Felder filed an application for appeal from an order entered on August 24, 2005, transferring the case to a presiding judge for the resolution of post-judgment proceedings. Since the order complained of does not dispose of any motion currently before the court below, Felder was required to follow the interlocutory appeal procedure before filing his application. Because no certificate of immediate review accompanies Felder's application, the application is hereby *dismissed* for lack of jurisdiction. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Felder's emergency motion to stay proposed order for incarceration and motion for supersedeas is hereby *dismissed* as moot.

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

SEP 27 2005

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

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

C. Vill. L. Mait; JR

, Clerk.

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

ATLANTA, OCTOBER 21, 2005

The Court of Appeals passed the following order

Case No. A06D0040

GARRY FELDER V. BANK OF AMERICA, N.A.

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

90-004
02VF001146

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 21, 2005*

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

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: November 9, 2005

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 **S06C0457**

GARRY FELDER v. BANK OF AMERICA, N.A.

Clerk, Supreme Court of Georgia

Case No. A06D0040

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

NOV 14 2005 sent to S.C.

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA,

SEPTEMBER 28, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0041

SANDY FRANKLIN V. THE STATE

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

93004

2005CR0089

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2005

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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 above written.*

Clerk.

Will. L. Mait; JR

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

ATLANTA, SEPTEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0042
RITE-AID CORPORATION AND INSURANCE COMPANY OF THE STATE
OF PA C/O AIGCS V. BARBARA DAVIS

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.

71004

20050651

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 30 2005

*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.

William L. Martineau

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

ATLANTA, SEPTEMBER 28, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0043
WILLIAM D. WAITS V. VICCI S. WAITS

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

92004
04V111

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 28 2005

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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 above written.*

Clerk.

William L. Martin, Jr.

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

ATLANTA, OCTOBER 04, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0044

REBECCA WRIGHT 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.

97004

04CR93

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 04 2005**

*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.

C. Vill. L. Mart; R

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

ATLANTA, OCTOBER 04, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0045

TAWANNA BRYANT V. THE STATE

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

99004

97CR18191

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

OCT 04 2005

*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.

C. L. L. Martin

1

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 11 2005

A06D0046. SNUGGS v. SNUGGS, Sr., et al.

In the order of this court disposing of related Application No. A05D0301 this court advised that “[a]ny party to this suit may file a timely *direct* appeal of a subsequent order that adjudicates the liability claim of James Mason Snuggs¹ against his mother, Louise Wallen Snuggs, and leaves no further claims pending before the trial court.” (Emphasis supplied.) Applicant Louise Wallen Snuggs asserts that the case was rendered final on August 9, 2005, when James Wallen Snuggs, Sr., filed a “Dismissal Without Prejudice of Defendant Louise Wallen Snuggs”. We assume without deciding that the filing of August 9 is an event authorizing the right to appeal from earlier orders of the trial court. Nevertheless, this application was not filed until September 9, 2005, 31 days after the “dismissal” was filed. It follows that under no circumstances can this possibly be deemed a timely filed application for appeal. The application is therefore *dismissed* for lack of jurisdiction. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

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

OCT 11 2005

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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.*

C. Will. L. Mart..., Clerk.

¹Respondent James Wallen Snuggs, Sr., informs the court that he is the person referred to as “James Mason Snuggs” in this litigation.

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

ATLANTA, SEPTEMBER 29, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0047

THE SHERWIN - WILLIAMS COMPANY ET AL V. RAY E. NIX

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

94004

05CV616

*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.



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: October 18, 2005

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 **S06C0313**

SHERMAN - WILLIAMS COMPANY et al. v. RAY E. NIX

Clerk, Supreme Court of Georgia

Case No. A06D0047

Court of Appeals of Georgia

Notice of Petition for Certiorari

10/19/05

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: **OCT 19 2005**

A06D0048. VICTORIA A. MOSES v. KELVIN D. KING.

The parties are parents of a minor child. A 2002 action resulted in the child being legitimated by Kelvin D. King, granted the parties joint legal custody, made Victoria A. Moses the primary physical custodian, and ordered King to pay \$850 per month in child support.

Moses filed an action for contempt in 2004 for King's failure to pay child support. On December 7, 2004, the court found King to be \$16,500 in arrears in child support payments and set up a payment schedule for him to pay off the amount in arrears, as well as to make future child support payments. The following day, King filed a complaint for modification of child support and change of custody. The trial court granted the petition, awarding primary physical custody to King and ordering Moses to pay child support. The court noted that King was in arrears in past support payments to Moses and ordered that Moses' child support payments would be offset by the amount of the arrearage.

Moses filed a motion for new trial from this order, which the trial court granted in part and denied in part on June 29, 2005. In doing so, the trial court essentially restated the terms of its earlier order, but granted Moses' motion for new trial on the issue of allowing the child's testimony to be transcribed at a special hearing. Moses filed an application for discretionary appeal, docketed in this Court as A05D0402. This Court dismissed the application on August 23, 2005, on the basis that Moses was required to file an application for interlocutory appeal under OCGA § 5-6-34 (b), because the order appealed from was not a final judgment.

The trial court then held the transcribed hearing in which the child testified. Afterwards, the court entered a "Final Judgment" in the case. This time, the court awarded joint legal and physical custody of the child to the parties. The court also held that because the parties are to share physical custody, neither party would be obliged to pay child support to the other. The court did not address, however, the issue of King's repayment of his past-due child support obligation.

Moses then filed this application for discretionary appeal, challenging the modification of custody and child support. She also contends that the trial court erred in failing to determine how King would repay the child support payments in arrears. According to King, the trial court has scheduled a hearing on this issue for November 18, 2005.

Again, because the case remains pending in the trial court, no final judgment has in fact been entered. Moses was thus required to follow the interlocutory appeal procedure of OCGA § 5-6-34 (b). *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Her failure to follow the interlocutory appeal procedure deprives this Court of jurisdiction to consider this application. Accordingly, this application is DISMISSED.

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

OCT 19 2005

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

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

ATLANTA, OCTOBER 03, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0049
SOLINET, INC. V. APRIL JOHNSON

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

95005
2005CV100087

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

OCT 03 2005

*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.

Will. L. Martin, III

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

ATLANTA, OCTOBER 17, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0050
GEORGIA PACIFIC CORPORATION V. TIM HALL

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

96005

SU05CV145

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 17 2005**

*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, OCTOBER 18, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0051

JUANZA F. CURTIS V. THE STATE

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

98005

97FE204F

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 18 2005**

*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.

Willie L. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 13 2005**

A06D0052. GEORGIA DEPARTMENT OF HUMAN RESOURCES v. HOWARD.

Respondent Ronald Howard has argued in his response brief that the above styled application for appeal by the Georgia Department of Human Resources should be dismissed for lack of jurisdiction. The only order entered within 30 days of the filing of this application is an order denying the Department's motion to reconsider a previous order setting aside an income deduction order against Howard. The denial of a motion for reconsideration of a *final* order is not appealable in its own right, nor does the filing of such a motion extend the time for filing an application for appeal. OCGA § 5-6-35 (d); *Blackwell v. Sutton*, 261 Ga. 284 (404 SE2d 114) (1991); *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000); *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). The denial of a motion for reconsideration of a *non-final* order is appealable only if certified for immediate review in the manner required under OCGA § 5-6-34 (b). *Mayor & Aldermen of the City of Savannah v. Norman J. Bass Construction Co.*, 264 Ga. 16, 17 (1) (441 SE2d 63) (1994). Since the order complained of appears to be interlocutory in nature, as Howard argues, and since the Department did not obtain a timely certificate of immediate review before filing the application, the Department's application is hereby *dismissed* for lack of jurisdiction. *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991).

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

OCT 13 2005

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 07 2005**

A06D0053. Sama v. Green Tree Servicing, LLC

Henry C. Sama d/b/a Sama's Mobile Home Salvage and Storage seeks discretionary review of the trial court's order granting summary judgment to Green Tree Servicing, LLC. However, an order granting summary judgment is subject to direct appeal. OCGA §9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). 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 this case, however, the Sama filed a timely notice of appeal. Thus, OCGA § 5-6-35 (j) does not apply and this application is ordered DISMISSED

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 07 2005**

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

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

C. L. L. Maitland Clerk.

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

ATLANTA, OCTOBER 24, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0054

ATLANTA INDEPENDENT SCHOOL SYSTEM V. JAMES BERTO ET AL

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

93005

2004CV94309 2004CV94312

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 24 2005**

*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.

Willie L. Mat... A

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

ATLANTA, OCTOBER 19, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0055
METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY
V. MICHAEL G. REID

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.

71005
2005CV102931

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 2005

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the minutes of the Court of Appeals of Georgia*

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



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

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 07 2005

A06D0056. JAMES LEROY McKEEHAN v. THE STATE.

James Leroy McKeehan, who is proceeding pro se, seeks an appeal from an order denying his "Extraordinary Motion for a Special Demurrer." McKeehan has already challenged his conviction by direct appeal to this court and the judgment was affirmed. *McKeehan v. State*, 274 Ga. App. 14 (616 SE2d 489) (2005). Because we conclude that what McKeehan seeks here in effect is an unauthorized second appeal challenging his convictions, the application is improper and is therefore *DISMISSED* for lack of jurisdiction. *Jones v. State*, 278 Ga. 669 (604 SE2d 483) (2004); *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001).

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

OCT 07 2005

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

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

, Clerk.



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

ATLANTA, OCTOBER 24, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0057

WILLIAM R.L. LATSON ET AL V. DARRELL LEE BOAZ ET AL

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

99005

2001V1111

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 24 2005**

*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, OCTOBER 27, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0058
BAYER CORPORATION ET AL V. MARY LASSITER A/N/F OF
CHARLES LASSITER

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.

91005
SU2005CV1938

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

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

Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 14, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0059
SAMUEL-KING ETONGWE V. ELIZABETH ELAD

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

94005

05CV93786

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 14 2005**

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

Clerk.

C. L. Mait; JR

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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 0 6 2005**

A06D0060. GEORGE BELLAMY v. THE STATE.

George Bellamy filed this application for discretionary appeal from the denial of his "Motion for Correction of an Illegal Sentence." Bellamy was convicted of murder. See *Bellamy v. State*, 272 Ga. 157 (527 SE2d 867) (2000). Accordingly, his application is hereby TRANSFERRED to the Supreme Court for disposition, as required by *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 0 6 2005**

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the minutes of the Court of Appeals of Georgia.*

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

Will. L. Martin, JR., Clerk.

Court of Appeals

of the State of Georgia

ATLANTA, OCTOBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0061

RASHEEN BIGGINS V. THE STATE

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

95006

CR021611 CR021615

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 07 2005

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hereto affixed the day and year last above above written.*

Clerk.

C. Will. L. Mait; JR

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

ATLANTA, OCTOBER 26, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0062
BILLIE JO OWENS V. YKK (USA), INC., ET AL

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

96006

05CV30505

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 26 2005

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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 above written.*

Clerk.

W. L. Mat... [Handwritten Signature]

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

ATLANTA, OCTOBER 31, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0063
RODNEY P. WEBB V. SONYA WATKINS

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.

98006
03CV761110

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta OCT 31 2005

*I certify that the above is a true extract fromd
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,

The Court of Appeals hereby passes the following order: NOV 01 2005

A06D0064. BROWN v. THE STATE.

Inmate Ronnie A. Brown has filed an application for appeal from an order denying his motion seeking to set aside his criminal sentences as void. Because the legality of Brown's sentencing has already been addressed by this court as part of his original appeal from his convictions,¹ Brown is not entitled to a second appeal on this issue. Brown's application is therefore dismissed for lack of jurisdiction. *Miller v. State*, 277 Ga. 372 (589 SE2d 108) (2003).

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

NOV 01 2005

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

¹*Brown v. State*, 199 Ga. App. 773, 774 (406 SE2d 248) (1991).

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

ATLANTA, OCTOBER 17, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0065

JEROME KLUBECK V. ENTERTAINMENT CORPORATION OF AMERICA,
ET AL

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

93006

2004CV96611

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 17 2005

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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 above written.*

Clerk.

Willie L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 03 2005**

A06D0066. CHARLES DERRICK LARKE v. THE STATE.

Upon consideration of Charles Derrick Larke's request for voluntary dismissal of his application for discretionary appeal, which this Court is treating as a motion for withdrawal of the application, the motion is hereby GRANTED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 03 2005**

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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.*

Willie L. Matz

, Clerk.

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

ATLANTA, OCTOBER 26, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0067

GREGORY JORDAN 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.

92006

03R201

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 26 2005

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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.

Willie L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 14 2005**

A06D0068. THOMAS E. COTTON ET AL. v. LEWIS WINTER.

Thomas E. Cotton filed this application for discretionary appeal to appeal the order compelling post-judgment discovery – his deposition – and awarding Lewis Winter \$500 attorneys fees.

From the record before us, it appears that the discovery matter remains pending; there is no indication that Cotton's deposition was taken.¹ Therefore, Cotton was required to follow the interlocutory appeal procedure. *Dial v. Bent Tree Nat'l Bank*, 215 Ga. App. 620 (451 SE2d 533) (1994). For this reason, Cotton's application for discretionary appeal is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 14 2005**

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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.*

C. Will. L. Martin, Jr., Clerk.

¹The trial court ordered the deposition to take place September 8, 2005. On September 21, 2005, Cotton filed his application in the Supreme Court, which transferred it here. Cotton does not state in his application that the deposition took place as ordered.

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

ATLANTA, NOVEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0069

BRENDA C. WYNN V. PROFESSIONAL STANDARDS COMMISSION

ET AL

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

99006

2005RCCV244

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 07 2005

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Clerk.

Will L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0070

JENNIFER RENAE BAYLARD V. GRANT FRED PAGE

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

91006

031992734

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 07 2005

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Clerk.

W. L. Matia

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 19, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0071

THOR RECEIVABLES CORP, ET AL V. WILLIAM BARNETTE, ET AL

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

94006

03A26634

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 19 2005

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the minutes of the Court of Appeals of Georgia*

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Clerk.



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

ATLANTA, OCTOBER 20, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0072
DONAVAN FERGUSON V. THE STATE

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

70006

CR032658 1733 CR041052

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **OCT 20 2005**

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hereto affixed the day and year last above above written.*

Clerk.



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

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 18 2005**

A06D0073. DENNIS L. CARR v. THE STATE.

Dennis L. Carr, who is proceeding *pro se*, filed this application for discretionary appeal to challenge the trial court's refusal to rule on his "Extraordinary Motion to Void the Judgment." Carr was convicted of murder. See *Carr v. State*, 265 Ga. 477 (457 SE2d 559) (1995). Accordingly, his application is hereby TRANSFERRED to the Supreme Court for disposition as required by *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 18 2005

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

Will L. Matz, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, OCTOBER 27, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0074
CHARLES HENRY GIBBONS V. KATHY HODGE

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

96007

0533169

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 27 2005

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Clerk.

W. L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0075
MATTHEW BRIAN STEWART V. THE STATE

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

98007

049418024

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

NOV 07 2005

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hereto affixed the day and year last above above written.*

Clerk.

Will L. Matz

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 09, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0076
THEODORE LINARES ET AL V. PICCADILLY PLACE CONDOMINIUM
ASSOCIATION, INC.

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

90007

05C078271

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 09 2005**

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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 above written.*

Clerk.

Will L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 21 2005**

A06D0077. Shaka M. Shedeke, P.C. v. Money Service Center, Inc.

Applicant Shaka M. Shedeke, P.C. ("Shedeke") seeks discretionary review of the trial court's order which found an Alabama Court had personal jurisdiction over Shedeke when it entered a judgment against it. The trial court, thus, declined to vacate or set aside the Alabama judgment. The trial court's order specifically declined to dismiss the complaint against Shedeke; thus, this case remains pending in the trial court, and no final judgment has been entered. Shedeke was required to follow the interlocutory appeal procedures to appeal the denial of its motion to dismiss. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Shedeke's failure to follow the interlocutory appeal procedures 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

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the minutes of the Court of Appeals of Georgia.*

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

 , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

OCT 20 2005

A06D0078. WALTER J. GRIFFIN v. THE STATE.

Walter J. Griffin, *pro se*, seeks discretionary review of the trial court's order denying his pre-trial "Constitutional Challenge to OCGA § 14-153 and 17-7-170," which in substance is a demand for speedy trial. A defendant has the right to directly appeal from the pre-trial denial of a speedy trial demand. *Callaway v. State*, 275 Ga. 332 (567 SE2d 13) (2002).

Under OCGA § 5-6-35 (j), when a timely application for discretionary appeal is filed in a case that is subject to direct appeal under OCGA § 5-6-34 (a), but not subject to discretionary appeal under OCGA § 5-6-35 (a), and the applicant has not filed a timely notice of appeal, the appellate court has jurisdiction to decide the case and must grant the application. Accordingly, this application is GRANTED. Griffin shall have ten days from the date of this order to file a notice of appeal with the superior court. OCGA § 5-6-35 (g). The clerk of the superior court is instructed 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 OCT 20 2005

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the minutes of the Court of Appeals of Georgia.*

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

 , Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 07 2005**

A06D0079. RONALD WALLER v. MARK YARBROUGH ET AL.

On October 14, 2005, Plaintiff Ronald Waller, acting pro se, filed an application for discretionary appeal seeking a ruling as to whether the trial court's failure to timely process a notice of appeal is reversible error and a violation of his due process rights.

Waller brought suit for damages against defendants Mark Yarbrough, et al., in magistrate court asserting a claim of breach of contract arising out of the sale of an automobile. The magistrate court entered judgment in favor of the defendants and dismissed Waller's case. Waller filed a timely appeal de novo in state court. In the state court, Waller filed an amended complaint asserting breach of contract, breach of warranty and fraud. On November 29, 2004, the state court entered an order granting defendants' motion for summary judgment, and Waller filed a certificate of indigency and a notice of appeal seeking a direct appeal of the grant of summary judgment. Waller asserts that the trial court has not acted on his appeal.

Since this application was filed, the trial court has granted Waller's motion to proceed in forma pauperis, and his direct appeal of the order of November 29, 2004 has been entered on the appellate docket of this Court as A06A0527. Accordingly, to the extent that Waller was seeking to compel the trial court to act on his motion for in forma pauperis and to forward his appeal to this Court, such claims for relief have become moot.

The underlying subject matter of an appeal generally controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467 (448 SE2d 192) (1994). The underlying subject matter of this appeal is a de novo

appeal from the magistrate court to the state court. "Even when the superior court decides an issue that was not raised or considered in the magistrate court, any appeal to this Court must be pursuant to the discretionary appeal procedure because the case reached the [state] court through a de novo appeal from the magistrate court." *Bullock v. Sand*, 260 Ga. App. 874, 876 (581 SE2d 333) (2003); *Southtowne Hyundai-Isuzu-Suzuki v. Hopper*, 216 Ga. App. 214 (453 SE2d 756) (1995); see *Jarrett v. Ford Motor Credit Co.*, 178 Ga. App. 600 (344 SE2d 440) (1986).

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of the order sought to be appealed. Because Waller did not file a timely application for discretionary appeal of the order granting summary judgment to the defendants, this Court is without jurisdiction over this application. Accordingly, this application is DISMISSED.

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

NOV 07 2005

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 21 2005**

A06D0080. FREDERICK PHILLIPS v. THE STATE.

Frederick Phillips filed this application for discretionary appeal from the trial court's September 12, 2005 order revoking his probation. The application was docketed in this Court on October 17, 2005.¹ An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Phillips filed his application 35 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

OCT 21 2005

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

W. L. Matz, Clerk.

¹Phillips' original submission was not accepted for filing because it did not contain a stamped "filed" copy of the trial court's order in violation of Court of Appeals Rule 31 (d).

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 17, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0081

BETH MOODY LEE V. THE STATE

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

99007

93CR1651

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 17 2005**

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Clerk.

William L. Matz

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

ATLANTA, NOVEMBER 18, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0082
RENEE HUDES V. KELLY J. PASEKA

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.

91007
021765028

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

NOV 18 2005

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Clerk.

Willie L. Matz

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

ATLANTA, NOVEMBER 04, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0083

CHERYL PICKETT V. THE HOME DEPOT DISTRIBUTION CENTER ET AL

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

94007

CV050919

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 04 2005

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Clerk.

Willie L. Martinez

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

ATLANTA, NOVEMBER 08, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0084

CHARLIE EDWARD REYNOLDS, JR., V. THE STATE

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

70007

05SR161163

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

NOV 08 2005

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

Clerk.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 27 2005**

A06D0085. BOBBY HARDWICK v. APRIL M. SMITH.

On August 2, 2004, Bobby Hardwick, acting pro se, brought a suit for damages against Miriam Atkins, et al., following the death of his wife while she was a patient in The University Hospital in Augusta, Georgia. On October 21, 2004, the superior court dismissed the case on the grounds that Hardwick had failed to attached an expert affidavit to his complaint. Hardwick moved to proceed in forma pauperis on appeal of the order dismissing his suit. On January 7, 2005, the superior court denied the motion to proceed in forma pauperis.

Hardwick filed an application for discretionary appeal of the order of January 7, 2005, and on March 9, 2005, this Court granted his application. Hardwick's ensuing direct appeal is docketed in the September 2005 term of this Court as A05A2221. No hearing transcripts are currently attached to the appellate record.

After filing his direct appeal, Hardwick filed a petition in the superior court for "Leave To File And Proceed On Petition For Writ Of Mandamus Or Petition For Injunctive Relief In Forma Pauperis" seeking to compel the superior court "to honor Plaintiff's pauperis status" by preparing transcripts that were taken down during hearings dated January 7, 2005 and February 2, 2005. An order denying filing of this petition was entered on September 21, 2005. Hardwick responded by filing an application for discretionary appeal of the order of September 21, 2005.

The underlying subject matter of an appeal generally controls over the relief sought in determining the proper appellate procedure. *Rebich v. Miles*, 264 Ga. 467 (448 SE2d 192) (1994). The underlying subject matter of this application for discretionary appeal is a petition seeking a writ of mandamus or in the alternative,

injunctive relief. Thus, appellate jurisdiction over this application is vested in the Supreme Court of Georgia. Ga. Const. of 1983, Art VI, Sec. VI, Par III (5); compare *Schulten, Ward & Turner, LLP v. Fulton-DeKalb Hospital Authority*, 272 Ga. 725 (535 SE2d 243) (2000); *Saxton v. Coastal Dialysis &c., Inc.*, 267 Ga. 177, 178 (476 SE2d 587) (1996); compare *Beauchamp v. Knight*, 261 Ga. 608, 609 (2) (409 SE2d 208) (1991).

Accordingly, this application is TRANSFERRED to the Supreme Court for appropriate appellate disposition. As the outcome of this application may have a substantial impact on Hardwick's appeal, A05A2221, it is requested that the clerk of this Court be informed of the ultimate disposition of this application.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 27 2005**

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

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

Willie L. Mat... , Clerk.

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

ATLANTA, NOVEMBER 03, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0086
MONTEREY COMMUNITY COUNCIL ET AL V. DEKALB COUNTY
PLANNING COMMISSION 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.

95008

05CV36848

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 03 2005**

*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.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 04 2005

A06D0087. IN THE INTEREST OF: S.A.J. AND Z.T.J.

Sherri Dawn Smith and Sharon Jacobs seek discretionary review of the disposition order in this deprivation case. However, deprivation cases are not considered domestic relations cases subject to the discretionary appeal procedure and a right of direct appeal lies from final orders in such cases. *In the Interest of J. P.*, 267 Ga. 492 (480 SE2d 8) (1997). Because the order is directly appealable, this application is GRANTED pursuant to OCGA § 5-6-35 (j).

Sherri Dawn Smith and Sharon Jacobs shall have 10 days from the date of this order to file a notice of appeal. The Clerk of the juvenile 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 NOV 04 2005

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

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

Willie L. Matz Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: NOV 18 2005

A06D0088. NELSON v. THE STATE.

Robert E. Nelson filed an application for discretionary appeal on October 24, 2005, from an order of the superior court entered on September 13, 2005, denying Nelson's extraordinary motion for new trial. Because Nelson's application was not filed within 30 days of the entry of either order appealed from as required under OCGA § 5-6-35 (d), the appeal is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 18 2005

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

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

Willie L. Matz, Clerk.

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

ATLANTA, NOVEMBER 09, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0089

IGNACIO OLIVARES V. SHASTA BEVERAGES, INC., ET AL

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

90008

2005CV2301B

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 09 2005**

*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.

William M. Matz

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: November 29, 2005

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 **S06C0532**

IGNACIO OLIVARES v. SHASTA BEVERAGES, INC., et al.

Clerk, Supreme Court of Georgia

Sherie M. Welch
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

2005 DEC - 1 AM 9:10

RECEIVED IN OFFICE

Case No. A06D0089

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,

NOV 17 2005

The Court of Appeals hereby passes the following order:

A06D0090. IN THE INTEREST OF: R. L. W.

The Barrow County Probate Court issued Temporary Letters of Guardianship of the Person of a Minor to Sandra and Ismael Rodriguez, as guardians of their grandson, R. L. W. The child's mother subsequently filed a petition to terminate the guardianship, which the juvenile court granted on September 14, 2005. The Rodriguezes then filed a "Motion to Set Aside the Court's Order Terminating Guardianship of September 14, 2005, or, in the Alternative, to Modify Said Order and for an Order of Supersedeas in Either Case." The trial court properly treated this motion as a motion for reconsideration of its September 14, 2005 order and denied it on September 21, 2005. On October 21, 2005, the Rodriguezes filed this application for discretionary appeal from the denial of their motion for reconsideration.

This Court, however, does not have jurisdiction to consider the merits of this application. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). A motion for reconsideration does not extend the time for filing a discretionary application. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Here, the trial court's order granting the mother's petition to terminate the guardianship – the order properly appealed from – was entered 37 days prior to the date this application was filed. Because the application is untimely, this

Court lacks jurisdiction to consider it. For these reasons, the application is ordered
DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 17 2005

*I certify that the above is a true extract from
the minutes of 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, DECEMBER 13, 2005

The Court of Appeals passed the following order

Case No. A06D0090

IN THE INTEREST OF R. L. W.

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

93-008
00704J570

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 13, 2005*

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

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

ATLANTA, NOVEMBER 04, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0091
REGINALD BOONE, JR. V. THE STATE

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

71008

1J04CR064N

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 04 2005**

*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.

Will. L. Martin

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

ATLANTA, NOVEMBER 14, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0092
ROBERT B. DRAKE V. DARLIA MAY DRAKE

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.

92008

05CV0544

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 14 2005

*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.

Will. L. Mat... [Signature]

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

ATLANTA, NOVEMBER 17, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0093

BRANCH BANKING AND TRUST COMPANY V. ANITA WHEELER ET AL

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

99008

2005SV1570

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 17 2005**

*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.

Willie L. Martinez

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 21, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0094

SCOTT MACHEN V. THE STATE

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

91008

2005CR038

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 21 2005**

*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, NOVEMBER 17, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0095

IN THE INTEREST OF : C. L. V. COBB COUNTY BOARD OF EDUCATION

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

94008

051420028

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 17 2005**

*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.

Willie L. Matia

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 23, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0096
CITY OF VIDALIA ET AL V. KEN NOBLES ET AL

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

70008
03CV477

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

NOV 23 2005

*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.

Will. L. Martinez

Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 15, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0097

BENJAMIN SINCLAIR HOLLBERG V. SPALDING COUNTY, GEORGIA 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.

95009

04V1566

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 15 2005

*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.

W. L. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 07 2005**

A06D0098. MELVIN JAMES WILLIAMS, M.D. v. PARKWAY PHYSICIAN PRACTICE COMPANY.

Parkway Physician Practice Company sued Melvin James Williams, M.D. for breach of contract. Williams answered and counterclaimed. On October 11, 2005, the trial court struck Williams' answer and counterclaim and entered a final judgment by default, awarding Parkway \$37,336.22 for the contract claim; \$33,947.94 in attorney fees, expenses and expert witness fees; and prejudgment interest. On November 3, 2005, Williams filed this application for discretionary appeal.

This is an appeal from a final judgment. See *Standridge v. Spillers*, 263 Ga. App. 401 (587 SE2d 862) (2003). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. Because Williams' appeal does not require a discretionary application, this application is GRANTED as required under OCGA § 5-6-35 (j). Williams shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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 **NOV 07 2005**

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

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

ATLANTA, NOVEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0099

THE UNIVERSITY OF GEORGIA / DEPARTMENT OF ADMINISTRATIVE
SERVICES V. DAVID T. JENKINS

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

98009

SU05CV1371

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 30 2005**

*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.

Will L. Martin

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

ATLANTA, NOVEMBER 29, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0100
SILAS BANKSTON, JR V. THE STATE

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

90009

2004CR010856

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 29 2005**

*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, NOVEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0101
IN RE: ESTATE OF DALLAS MELVIN LANDRESS

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

93009

04001131

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

NOV 30 2005

*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.

Will. L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 09 2005**

A06D0102. JENNIFER ADAMS v. CARL SOUTH.

Jennifer Adams filed this application for discretionary appeal on November 4, 2005, thirty-one days after the superior court's October 4, 2005 order that she seeks to appeal. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Adams filed her application in this court more than thirty days after entry of the order she seeks to appeal, it is untimely. This court lacks jurisdiction to consider an untimely application. *Fabe v. Floyd*, 199 Ga. App. 322 (405 SE2d 265) (1991). Therefore, the application is hereby ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 09 2005**

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

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

Willie L. Mat... Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 30, 2005

The Court of Appeals passed the following order

Case No. A06D0103

MARK A. HAZZARD V. THE STATE

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

92-009
899019218

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta NOV 30, 2005*

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

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

Clerk.



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

ATLANTA, NOVEMBER 22, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0104
GREGORY MILANOVICH 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.

97009
941322

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 22 2005**

*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.

Will L. Matz

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

ATLANTA, DECEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0105
FAMILY DOLLAR STORES, INC., ET AL V. BETTY JO PERDUE

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

99009

05CV30793

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 07 2005**

*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.

Will. L. Mat... [Signature]

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

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 09 2005**

A06D0106. BURBANK, et al. v. DELANEY.

Dennis and Shannon Burbank filed an application for appeal from a final order entered in a landlord-tenant dispute. Because we conclude that the discretionary appeal procedure does not apply in this case the application is hereby *granted* as required under OCGA § 5-6-35 (j). The applicants shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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 **DEC 09 2005**

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 23 2005**

A06D0107. Johnny R. Durrance v. The State

Johnny R. Durrance filed this application for discretionary appeal seeking review of the trial court's order denying his Motion to Vacate, Void Judgment of Conviction and Sentence. After a jury trial, Durrance was found guilty of numerous offenses and sentenced to fifteen years. He appealed his conviction which was affirmed by this Court. Durrance then filed a Writ of Habeas Corpus alleging ineffective assistance of counsel which was also denied. Durrance then filed a Motion to Vacate, Void Judgment and Sentence contending that the indictment against him was defective. The trial court denied the motion finding the motion did not seek an appropriate remedy. Durrance seeks to appeal this order; however, Durrance does not have the right to file an appeal from the trial court's action. Although the denial of a motion to set aside a void judgment is directly appealable, a sentence is void only if the punishment imposed is not allowed by law. *Jones v. State*, 278 Ga. 669, 670 (604 SE2d 483) (2004). There is no evidence in this case that the sentence imposed falls outside the statutory range of punishment; therefore, the sentence is not subject to post-appeal modification beyond that provided in OCGA § 17-10-1 (f), which is not applicable to this case. Accordingly, this Court lacks jurisdiction to consider this application and it is ordered DISMISSED.

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

NOV 23 2005
*I certify that the above is a true extract from
the minutes of the 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, DECEMBER 09, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0108
TONYA LOWE V. INFINITY OUTDOOR, INC., ET AL

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

70009

03VS054816

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 09 2005

*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.

Willi L. Matijevic

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 01, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0109
JANE JAMESON V. JACK E. JAMESON, JR., ET AL

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

95010

05G2288 05G1297

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

DEC 01 2005

*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.

Will L. Matia

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

ATLANTA, DECEMBER 05, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0110
ROGER DAUGHTRY V. THE STATE

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

96010

04R064

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

DEC 05 2005

*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.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 01 2005**

A06D0111. CAREY PERKINS v. THE STATE.

Carey Perkins filed this application for discretionary appeal from the dismissal of his motion to vacate conviction and sentence. Perkins was convicted of murder. See *Perkins v. State*, 260 Ga. 292 (392 SE2d 872) (1990). According, his application is hereby TRANSFERRED to the Supreme Court for disposition, as required by *State v. Thornton*, 253 Ga. 524 (322 SE2d 711) (1984).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 01 2005**

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

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0112
MARTY LEON TURNER V. THE STATE

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

90010

962029

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2005

*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.

Will. L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 07, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0113

GEORGIA DEPARTMENT OF EDUCATION ET AL V. CAROL ANN MILES

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

93010

2005CV104012

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 07 2005

*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.

Will. L. Mat. Jr.

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 06, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0114
WARREN SKILLERN V. KATHY CARTER ET AL

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

71010

05CV1857

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

DEC 06 2005

*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.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **NOV 30 2005**

A06D0115. ALBERT L. JEFFCOAT v. HILDA EUGENIA PARTRIDGE.

Plaintiff Albert L. Jeffcoat, acting pro se, filed an application seeking a discretionary appeal of the order, entered in Civil Action No. SU05DR152T, granting defendant Hilda Eugenia Partridge's oral motion to be relieved of financial responsibility for the monthly storage fee for certain personal property belonging to Jeffcoat. Civil Action No. SU05DR152T is a contempt proceeding arising from a motion for contempt filed by Jeffcoat against Partridge. There has been no hearing on the contempt issue and no judgment has been entered as to that matter.

“[T]he underlying subject matter generally controls over the relief sought in determining the proper procedure to follow to appeal.” *Rebich v. Miles*, 264 Ga. 467 (448 SE2d 192) (1994). The underlying subject matter of this appeal is the validity of an order granting an oral motion to be relieved of financial responsibility for storage fees filed during the course of a contempt proceeding. This type of order does not constitute a judgment in a contempt case, within the meaning of OCGA § 5-6-34 (a) (2); rather, it is an order that is interlocutory and ancillary to the issue of contempt and does not have an irreparable or final effect on the rights of the parties. Cf., *In re Keith Paul*, 270 Ga. 680, 682 n. 6 (513 SE2d 219) (1999).

The order granting the oral motion is both an interlocutory order, within the meaning of OCGA § 5-6-34 (b), and an order entered in a domestic relations case, within the meaning of OCGA § 5-6-35 (a) (2). But the discretionary-application statute does not relieve an applicant who seeks review of an interlocutory order of the requirement to obtain a timely certificate of immediate review. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (591 SE2d 103)

(1991). Because Jeffcoat has not filed a timely application for interlocutory review, under OCGA § 5-6-34 (b), this Court has no jurisdiction over this application and it is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 30 2005

I certify that the above is a true extract from the minutes of the 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: NOV 29 2005

A06D0116. GERRY H. LOGAN v. WENDY THOMPSON ET AL.

On October 27, 2005, Gerry H. Logan, a prison inmate proceeding pro se, filed a discretionary application seeking to appeal a September 26, 2005, order denying his motion to set aside. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Logan filed his application 31 days after entry of the order he seeks to appeal, it is untimely.

Logan contends that under the prison mailbox rule of *Massaline v. Williams*, 274 Ga. 552 (554 SE2d 720) (2001), his application should be deemed to have been timely filed on October 26, 2005. While the Georgia Supreme Court in *Massaline* adopted a mailbox rule for habeas petitions filed by pro se prisoners in that court, this court has not adopted such a rule. And Logan does not seek habeas relief but instead seeks monetary damages and “injunctive relief” against prison authorities to allow him access to grievance forms, access to the prison law library and to change counselors.

This court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Therefore, Logan’s application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta NOV 29 2005

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

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 03, 2006

The Court of Appeals passed the following order

Case No. A06D0117

MATTHEW E. LEWIS V. OFFICER COX ET AL

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

99-010
04V191

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 03, 2006*

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



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

ATLANTA, DECEMBER 19, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0118

ATLANTA INDEPENDENT SCHOOL SYSTEM V. GERALD NELSON

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

91010

2005CV97816



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 19 2005

*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.

Willie L. Matiza



 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 29, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0119

DONALD F. HUG, JR. V. CORNELL CORRECTIONS ET AL

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

94010

04V228

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 29 2005**

*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.

Will. L. Martin

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

ATLANTA, DECEMBER 15, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0120

JANE WALKER ET AL V. GEORGIA DEPARTMENT OF TRANSPORTATION

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.

70010

05V484

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 15 2005

*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.

Will. L. Mat...

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

ATLANTA, DECEMBER 01, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0121
BOBBY E. GOOLSBY, JR. V. THE STATE

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

95011

SU05CR1437

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 01 2005**

*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.*

Wm. L. Mat...
Clerk

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

ATLANTA, DECEMBER 06, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0122

BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA

V. REUBEN HOUSTON

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.

96011

2005CV107999

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 06 2005

*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.

Will L. Mat...

 Court of Appeals
of the State of Georgia

ATLANTA, NOVEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0123

JAMES LITTLE V. THE STATE

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

98011

1996R00453

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **NOV 30 2005**

*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.

Will L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 07 2005**

A06D0124. JENRETTE v. CHOATE.

The applicant's motion to withdraw the above styled application for appeal is hereby *granted*. The respondent's motion to dismiss the application is therefore *dismissed* as moot.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **DEC 07 2005**

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

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

ATLANTA, DECEMBER 15, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0125
GA NUTRITION PROGRAM, INC., V. OFFICE OF SCHOOL READINESS,
GEORGIA DEPARTMENT OF HUMAN RESOURCES

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

93011

04CV654C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **DEC 15 2005**

*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.

Will. L. Mat...A

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

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 15 2005**

**A06D0126. AMERICAN HOME EQUITY LOAN CORPORATION v. DICKEY
BROADCASTING COMPANY D/B/A WCNN-AM 680 THE FAN ET AL.**

American Home Equity Loan Corporation filed a timely motion for new trial from the trial court's November 3, 2005 order denying its traverse and motion to intervene in this garnishment action. According to the respondent, a hearing was held on the motion for new trial on November 22, 2005, but the trial court did not rule on the motion, which remains pending below. On November 23, 2005, American Home Equity Loan Corporation filed this application for discretionary appeal, seeking appellate review of the denial of the traverse and motion to intervene. A motion for new trial, however, extends the time for filing an application for discretionary appeal. See OCGA § 5-6-35 (d). Thus, this Court declines to review this application on the merits while the motion for new trial is pending. This application is accordingly **DISMISSED** without prejudice to either party's right to file an application for discretionary appeal from the ruling on the motion for new trial.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 15 2005**

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

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

ATLANTA, DECEMBER 12, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0127

MARK A. BAKER V. RENAISSANCE DEVELOPMENT CORP.

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.

92011

2002A35331

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 12 2005

*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.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: DEC 12 2005

A06D0128. HOMER HOLLIS REEVES ET AL. v. HENRY COUNTY WATER AND SEWER AUTHORITY.

Homer Hollis Reeves filed this discretionary application to appeal the dismissal of his "Motion to Set Aside Petition for Condemnation in Rem." Generally, a party must follow the discretionary appeal procedures to appeal the denial of a motion to set aside. OCGA § 5-6-35 (a) (8). According to the Henry County Water and Sewer Authority, however, the value issue remains pending in the superior court. Under Court of Appeals Rule 31 (b), the burden is upon the applicant to provide materials sufficient to apprise this Court of the appellate issues. Since it appears that the case remains pending in the trial court, we must conclude that Reeves was required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). His failure to follow the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application. *TJW Enters. v. Henry County*, 261 Ga. App. 547 (583 SE2d 144) (2003). This application is therefore DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 12 2005

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

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

Will L. Mat... Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 23, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0129
IN THE INTEREST OF: M.M., A CHILD

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

99011

200523311

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 23 2005

*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.

W. L. Matia

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

ATLANTA, DECEMBER 20, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0130
SARA LEANN WHEELER V. MELODY DOSS WHEELER

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

91011
02AD04310

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 20 2005**

*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.

Will. L. Martin

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

ATLANTA, DECEMBER 15, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0131
STONEHENGE FINANCIAL SERVICES CORPORATION V. EASTERN
SAVINGS BANK, FSB

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

94011

05GR024032D

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

DEC 15 2005

*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.

Will. L. Mat...

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

ATLANTA, DECEMBER 20, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0132
DEPARTMENT OF COMMUNITY HEALTH ET AL V. PRUITT CORPORATION
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.

70011
2005CV102117

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 20 2005**

*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.

Will. L. Martin

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

ATLANTA, DECEMBER 15, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0133
PIEDMONT HEALTHCARE, INC V. GEORGIA DEPARTMENT OF HUMAN
RESOURCES 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.

95012

2004CV95156

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

DEC 15 2005

*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.

W. L. Matz

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

ATLANTA

The Court of Appeals hereby passes the following order: **DEC 08 2005**

A06D0134. AMEDISYS HOME HEALTH OF FORT OGLETHORPE v. GEORGIA DEPARTMENT OF COMMUNITY HEALTH ET AL .

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

96-012

003CV75049

*Court of Appeals of the State of Georgia
Clerk's Office,* **DEC 08 2005**

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

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

ATLANTA, DECEMBER 29, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0135
LESLIE JAMES BODI V. OLGA GAVRILOVA

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

98012

0416955

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 29 2005**

*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.

W. L. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: DEC 21 2005

A06D0136. BROWN v. GLYNN COUNTY BOARD OF ELECTIONS & VOTER REGISTRATION.

Elaine Brown seeks an appeal from the affirmance by the superior court of decisions of the Glynn County Board of Elections & Voter Registration sustaining a challenge to Brown's eligibility as an elector in the City of Brunswick as well as a challenge to her eligibility as a candidate for mayor in the municipal general election held on November 8, 2005. For present purposes we assume without deciding that the issues raised in this application have not been rendered moot by the fact that the municipal election at issue has already been held. Because appeals in cases of election contest are within the exclusive appellate jurisdiction of the Supreme Court, Brown's application for appeal is hereby *transferred* to the Supreme Court for disposition. Ga. Const. 1983, Art. VI, § VI, ¶ II (2).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 21 2005

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

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

Will. L. Mat..., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: DEC 07 2005

A06D0137. Frederick M. Smith v. The State

Frederick M. Smith filed this application for discretionary appeal seeking review of the Georgia Supreme Court's denial of his application for Certificate of Probable Cause. However, this Court lacks jurisdiction to consider an appeal of a decision of the supreme court. Ga. Const. Art. 6, § 6, ¶ 7. Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 07 2005

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

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

ATLANTA, DECEMBER 28, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0138

THE ESTATE OF ROXANNA SHERLIN V. DIVISION OF FAMILY ET AL

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

71012

2005CV101408

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta DEC 28 2005

*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.*

W. L. Mat...
Clerk

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

ATLANTA, DECEMBER 06, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0139
WARREN W. SKILLERN V. KATHY CARTER ET AL

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

71013
05CV1857

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

DEC 06 2005

*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.

Willie L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 22 2005

A06D0140. ROSE PINKSTON v. KELLOGG COMPANY ET AL.

On December 5, 2005, Rose Pinkston, acting pro se, filed an application for discretionary appeal of the order, entered October 27, 2005, affirming the award of the State Board of Workers' Compensation denying her claim for workers' compensation benefits. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed with the clerk of this Court within 30 days of the date of entry of the order, decision, or judgment sought to be appealed. Pinkston's application was not filed until 39 days after the date of entry of the order of October 27, 2005. Accordingly, this Court lacks jurisdiction to consider this application and it is DISMISSED. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983); *Hogan v. Taylor County Bd. of Educ.*, 157 Ga. App. 680 (278 SE2d 106) (1981).

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

DEC 22 2005

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: DEC 15 2005

A06D0141. JAMES DANIEL KENNEDY v. THE STATE.

James Daniel Kennedy filed in the Supreme Court an “application for certificate of probable cause to appeal” the denial of pretrial bond. Noting that Kennedy had not filed an application for habeas corpus in the superior court and that there was no other basis for its jurisdiction, the Supreme Court treated the filing as a discretionary application to appeal and transferred it to this Court.

We, however, lack jurisdiction. “The interlocutory appeal procedures set forth in OCGA § 5-6-34 (b) are required to obtain review of an order denying or setting pre-trial bond.” *Mullinax v. State*, 271 Ga. 112, 112 (515 SE2d 839) (1999). The discretionary application statute does not relieve an applicant who seeks review of an interlocutory order of the requirement to obtain a timely certificate of immediate review. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (591 SE2d 103) (1991). Because Kennedy has not filed a timely application for interlocutory review, under OCGA § 5-6-34 (b) this Court lacks jurisdiction over this application and it is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta DEC 15 2005

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

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

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 30 2005

**A06D0142. DAWKINS & SMITH HOMES, LLC. v. LOWNDES COUNTY,
GEORGIA ET AL.**

Dawkins & Smith Homes, LLC has filed this application for discretionary appeal seeking review of the trial court's order, sustaining a decision of the Lowndes County Board of Zoning Appeals, which effectively denied its petition for a writ of mandamus. Under Ga. Const. 1983, Art. VI, Sec. VI, Par III (5) and OCGA § 9-6-28 (a), the Supreme Court has jurisdiction over appeals involving extraordinary remedies such as mandamus. *James v. State*, 120 Ga. App. 317 (170 SE2d 303) (1969). Accordingly, this application is ordered TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 30 2005

*I certify that the above is a true extract from
the minutes of the 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, JANUARY 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0143

DEPT. OF HUMAN RESOURCES/CHATHAM COUNTY DEPT. OF FAMILY

AND CHILDREN'S SERVICES ET AL V. GATEWAY COMMUNITY SERVICE

BOARD

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

91012

CV051297

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 03 2006

*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.

Willi L. Mat... [Signature]

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

ATLANTA, DECEMBER 22, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0144

YELLOW FREIGHT SYSTEMS ET AL V. MABRY F. STALLINGS JR.

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

94012

2005CV0676

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **DEC 22 2005**

*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.

Will. L. Mat... [Signature]

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

ATLANTA, JANUARY 12, 2006

The Court of Appeals passed the following order

Case No. A06D0144

YELLOW FREIGHT SYSTEMS ET AL V. MABRY F. STALLINGS JR.

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

94-012
2005CV0676

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 12, 2006*

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

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: January 23, 2006

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 **S06C0876**

YELLOW FREIGHT SYSTEMS et al. v. MABRY F. STALLINGS, JR., et al.

Clerk, Supreme Court of Georgia

Case No. A06D0144

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 03 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0145
GREG DOZIER V. JANETTE L. 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.

70012
05CV1803C

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

DEC 30 2005

*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.

Will. L. Martin

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

ATLANTA, JANUARY 04, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0146

JAMIE SCOTT V. THE STATE

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

95013

SU05CR1220S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 04 2006**

*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.

Will E. ...

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

ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 28 2005**

A06D0147. TASHA MONIQUE JONES, A/K/A LEE v. THE STATE.

Tasha Monique Jones, a/k/a Lee filed an “emergency petition for certiorari” in the Georgia Supreme Court, seeking to appeal the order denying her motion to recuse. The Supreme Court treated the petition as an application for discretionary appeal, found that it lacked subject matter jurisdiction over the application and transferred it to this Court.

The denial of a motion to recuse is not a final judgment and an appeal of such an order requires compliance with the interlocutory appeal procedures of OCGA § 5-6-34 (b). *Ellis v. Stanford*, 256 Ga. App. 294 (568 SE2d 157) (2002). Jones’ failure to comply with the interlocutory appeal procedures deprives this Court of jurisdiction to consider her application. Therefore, the application is DISMISSED.

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

DEC 28 2005

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

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

Willie L. Martinez, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

DEC 16 2005

A06D0148. REGINALD RICHARDSON v. THE STATE.

Reginald Richardson filed an application for discretionary appeal in this court on December 9, 2005, from an order entered on October 26, 2005, denying a motion to correct void judgment/sentence. Because Richardson failed to file his application for appeal in this court within 30 days of the entry of the order complained of as required under OCGA § 5-6-35 (d), Richardson's application is hereby DISMISSED for lack of jurisdiction. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 16 2005

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

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

Willie L. Martinez, Clerk.

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

ATLANTA, JANUARY 12, 2006.

Honorable Court of Appeals hereby passes the following order:

A06D0148. REGINALD RICHARDSON v. THE STATE

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

98-013

009222042

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 12 2006

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

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

Clerk.

Willie L. Matia

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

ATLANTA, JANUARY 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0149

MORGAN LEE V. THE STATE

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

90013

05CR231 45303

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 05 2006**

*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.

Will. L. Mat... [Signature]

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

ATLANTA, DECEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0150

BRADLEY LANE V. THE STATE

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

93013

02CR258

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **DEC 30 2005**

*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.

Will. L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0151

ANTHONY PHELPS V. THE STATE

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

92013

01CR01551 00CR05921

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 06 2006

*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.

Willie L. Mat... [Signature]

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

ATLANTA, DECEMBER 21, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0152

TONY HOLMES V. SOUTHEASTERN FREIGHT LINES ET AL

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

97013

05CV31538

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

DEC 21 2005

*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.

Will. L. Matz

Court of Appeals
of the State of Georgia

ATLANTA, DECEMBER 29, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0153
ACCORD HUMAN RESOURCES ET AL V. CHARLES DANIELS

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.

99013
SU2005CV297

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

DEC 29 2005

*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.

Will L. Mat...

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0154
ABBY JANE VANDEWIELE V. THE STATE

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

91013

SU05CV0121

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 11 2006**

*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.

Will. L. Martin

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

ATLANTA, JANUARY 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0155
MICHAEL LEFRAWN TATE 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.

94013
44084J

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 09 2006**

*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, DECEMBER 30, 2005

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0156

ELDON CAMPBELL 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.

70013

SU98CR2389

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.

Will L. Matia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 11 2006**

A06D0157. DEBRA WILLIAMS v. HOUSING AUTHORITY OF THE CITY OF ATLANTA.

On December 16, 2005, Debra Williams filed an application for discretionary appeal from the trial court's November 16, 2005 order dismissing her notice of appeal. Although an application for discretionary appeal may usually be filed within 30 days of the date of entry of the order sought to be appealed, it is the underlying subject matter of an appeal that controls over the relief sought in determining proper appellate procedure. See *Rebich v. Miles*, 264 Ga. 467, 467-468 (448 SE2d 192) (1994). The underlying subject matter of this application is a dispossessory proceeding.

OCGA § 44-7-56 specifies that "any judgment" in a dispossessory action is appealable only if "any such appeal shall be filed within seven days of the date such judgment was entered." Because Williams' application was not filed within seven days of the date of entry of the order dismissing her notice of appeal, the application is untimely. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522 (521 SE2d 456) (1999). This Court thus lacks jurisdiction to consider this application. The respondent's motion to dismiss is thus GRANTED, and the application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 11 2006

*I certify that the above is a true extract from
the minutes of the 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, JANUARY 27, 2006

The Court of Appeals passed the following order

Case No. A06D0157

DEBRA WILLIAMS V. HOUSING AUTHORITY OF THE CITY OF ATLANTA

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

95-014
2005CV102440

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 27, 2006*

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

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

Clerk.

Willie L. Mat... [Signature]

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: February 23, 2006

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 **S06C1047**

DEBRA WILLIAMS v. HOUSING AUTHORITY OF THE CITY OF ATLANTA

Clerk, Supreme Court of Georgia

Case No. A06D0157

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 27 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0158
SANDY GLOVER V. BRITISH PETROLEUM AMOCO ET AL

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

96014
05CV597

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

JAN 11 2006

*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.

Will. L. Martin

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.

(404) 656-3470

Sherie M. Welch, Clerk

Docketing Date: February 6, 2006

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 **S06C0962**

SANDY GLOVER v. BRITISH PETROLEUM AMOCO

Clerk, Supreme Court of Georgia

Case No. A06D0158

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 13 2006

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 6 2006

A06D0159. EMBERY J. McBRIDE v. THE STATE.

Embery J. McBride, a prisoner proceeding pro se, filed this application for discretionary appeal from the trial court's November 14, 2005 order denying his motion for DNA testing. The application was docketed in this Court on December 19, 2005.¹

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because McBride filed his application 35 days after entry of the order he seeks to appeal, it is untimely and is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 06 2006

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

, Clerk.

¹McBride's original submission was not accepted for filing because he did not include a filing fee or sufficient pauper's affidavit in violation of Court of Appeals Rule 31 (c). See OCGA § 5-6-4.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 31, 2006

The Court of Appeals passed the following order

Case No. A06D0159

EMBERY J. MCBRIDE V. THE STATE

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

98-014
SU85CR51132

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 31, 2006*

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

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

ATLANTA, JANUARY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0160
CITY OF ATLANTA V. ALAN RUDOLPH JONES 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.

90014
2004CV84111

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 11 2006**

*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.

Will L. Matia

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0161
VICTORIA A. MOSES V. KELVIN D. KING

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.

93014
04A134712

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 13 2006**

*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.

Willie L. Martin

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 06, 2006

The Court of Appeals passed the following order

Case No. A06D0161

VICTORIA A. MOSES V. KELVIN D. KING

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

93-014
04A134712

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 06, 2006*

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

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

ATLANTA, JANUARY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0162
VOUGHT AIRCRAFT INDUSTRIES INCORPORATED ET AL
V. BRIAN R. FAULDS

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.

71014

2005V82712L

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 11 2006

*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.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 13 2006**

A06D0163. KEVIN SHIER v. STACEY FLYNN.

The superior court entered a final judgment in this child support and visitation case on October 24, 2005. According to the mother, Stacey Flynn, on November 17, 2005, she filed a motion for new trial, which remains pending in the trial court. On November 23, 2005, the father, Kevin Shier, filed an application for discretionary appeal to the Supreme Court, which subsequently transferred the case to this Court. A motion for new trial, however, extends the time for filing an application for discretionary appeal. See OCGA § 5-6-35 (d). Thus, this Court declines to review this application on the merits while the motion for new trial is pending. This application is accordingly DISMISSED without prejudice to either party's right to file an application for discretionary appeal after the ruling on the motion for new trial.

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

JAN 13 2006

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

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

ATLANTA, JANUARY 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0164

JENILYN MOODY V. SATILLA HEALTH SERVICES, INC., ET AL

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

97014

05V0807

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JAN 03 2006

*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.

Will. L. Matia

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

ATLANTA, FEBRUARY 7, 2006

Honorable Court of Appeals hereby passes the following order:

A06D0164. JENILYN MOODY v. SATILLA HEALTH SERVICES, INC., ET AL

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

97-014

05V0807

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 07 2006

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

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

Clerk.

Will L. Mat... [Signature]

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: February 24, 2006

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 **S06C1055**

JENILYN MOODY v. SATILLA HEALTH SERVICES, INC., et al.

Clerk, Supreme Court of Georgia

Case No. A06D0164

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 20 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 04, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0165
CURTIS POLITE V. LAWANDA STEWART-BURRISON

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

99014

ST05GR263RT

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 04 2006**

*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.

Willie L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 11 2006

A06D0166. ANDRE MIMS v. THE STATE.

Andre Mims filed an application for discretionary appeal in this court on December 21, 2005, from an order entered on September 27, 2005, denying a motion to vacate a void sentence. Because Mims failed to file his application for appeal in this court within 30 days of the entry of the order complained of as required under OCGA § 5-6-35 (d), Mims's application is hereby DISMISSED for lack of jurisdiction. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

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

JAN 11 2006

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

(404) 656-3470

Sherie M. Welch, Clerk

Docketing Date: January 23, 2006

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 **S06C0889**

ANDRE E. MIMS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A06D0166

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 27 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JANUARY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0167
BRANDY YAUGHN GRAHAM V. THE STATE

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

94014

02CR1816

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

JAN 12 2006

*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.

Will. L. Mat... [Signature]

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

ATLANTA, JANUARY 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0168
DEREK LEROY MCSMITH V. THE STATE

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

70014

05CR301712

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2006

*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.

Will L. Matiza

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

ATLANTA, JANUARY 31, 2006

Honorable Court of Appeals hereby passes the following order:

A06D0168. DEREK LEROY MCSMITH v. THE STATE

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

70-014

05CR301712

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 31 2006

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

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

Clerk.

William L. Martinez

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

ATLANTA, JANUARY 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0169
JAMES T. ROBINSON V. THE STATE

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

95015

04CR29652

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 19 2006

*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.

Willie L. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 11 2006**

A06D0170. CANDYBEC, LLC. v. J. KENNETH COX.

CandyBec, LLC has filed an application for discretionary appeal seeking to appeal the denial of a motion for new trial and the denial of a motion for reconsideration. We, however, lack jurisdiction.

On April 25, 2005, the trial court entered a final judgment dismissing CandyBec's complaint and entering a default judgment in favor of J. Kenneth Cox on his counterclaim. On May 2, 2005, CandyBec filed a motion to reconsider, vacate or set aside the final judgment. On July 14, 2005, the trial court denied the motion. CandyBec filed a notice of appeal as well as an application for discretionary appeal of the July 14, 2005, order. This court dismissed the direct appeal, Appeal No. A06A0354, and denied the application for discretionary appeal, Application No. A06D0001.

On July 25, 2005, CandyBec filed a motion for new trial from the April 25, 2005, final judgment. It also filed a motion for reconsideration of the July 14, 2005, order denying its motion to reconsider, vacate or set aside the final judgment. The trial court denied both motions in a single order entered November 22, 2005. CandyBec then filed this application.

Under OCGA § 5-5-40, a motion for new trial must be filed within 30 days of the entry of the judgment. Because CandyBec's July 25, 2005, motion for new trial was not filed within 30 days of the April 25, 2005, entry of the final judgment, the motion is untimely. An untimely motion for new trial is void and does not toll the time for filing the notice of appeal. *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1991). We cannot construe CandyBec's untimely motion for new trial as an

extraordinary motion for new trial because CandyBec failed to accompany the motion with an attempt to show "some good reason . . . why the motion was not made during [the 30-day] period" following entry of the judgment as OCGA § 5-5-41 (a) requires. *Porter v. State*, 271 Ga. 498, 499 (521 SE2d 566) (1999).

CandyBec appealed the July 14, 2005, order in Application No. A06D0001 and we determined the application lacked merit. The doctrine of res judicata precludes further attempts to challenge the July 14, 2005, order. Accord *Northwest Social and Civic Club, Inc. v. Franklin*, 276 Ga. 859 (583 SE2d 858) (2003) (citing a Supreme Court rule identical to Court of Appeals Rule 31 (a) (1)). Therefore, we lack jurisdiction to consider the denial of CandyBec's motion for reconsideration of the July 14, 2005, order.

For these reasons, CandyBec's application for discretionary appeal is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 11 2006**

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 19 2006**

A06D0171. JON DON GRIFFITH ET AL. v. STEVEN BRYSON ET AL.

Jon Don Griffith, Mayor of the Town of Resaca, Georgia, filed this discretionary application seeking review of a superior court order denying his motion for attorneys' fees pursuant to OCGA § 45-9-21. As one branch of the combined case in which the order was entered, was filed pursuant to the provisions of the town's charter in order to challenge Griffith's removal from his elected office by a vote of the town council, this precautionary application was filed in order to preserve appeal rights should OCGA § 5-6-35 (a) (1) be deemed applicable.

However, the discretionary application is not required by OCGA § 5-6-35 (a) (1) because the decision of the superior court sought to be appealed does not arise from review of a decision of a local administrative agency. The superior court was the only tribunal to consider the motion predicated on OCGA § 45-9-21.

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 filed a notice of appeal. In this case, however, the applicant has indicated that he filed a timely notice of appeal in the Superior Court of Gordon County, which was confirmed by the Clerk of this Court. Thus, OCGA § 5-6-35 (j) is inapplicable. Accordingly, this application is hereby ordered DISMISSED.

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

JAN 19 2006

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

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

Will L. Mat... [Signature]

, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0172
BRIAN FAULDS V. VOUGHT AIRCRAFT INDUSTRIES ET AL

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

71015

2005V82712L

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 11 2006**

*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.

Will. L. McIntosh

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

ATLANTA, JANUARY 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0173

JOSEPH MAYER V. THE STATE

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

90015

04CR05203

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 10 2006**

*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.

Willi L. Mat:z

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 19 2006

A06D0174. LASHURN EDWARDS v. KELVIN Z. EDWARDS.

Lashurn Edwards filed this application for discretionary appeal from the superior court's order denying various post-decree motions in the parties' divorce action. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). This case is therefore TRANSFERRED to the Georgia Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 19 2006

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

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

Willie L. Martin

, Clerk.

Court of Appeals

of the State of Georgia

ATLANTA, JANUARY 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0175
KEITH DAMONT COLLIER V. THE STATE

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

92015

97CR18326

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 10 2006

*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.

Will. L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 31, 2006

The Court of Appeals passed the following order

Case No. A06D0175

KEITH DAMONT COLLIER V. THE STATE

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

92-015
97CR18326

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JAN 31, 2006*

*I certify that the above is a true extract from
the minutes of the 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 in black ink, appearing to read "Will. L. Mat..." followed by a flourish.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JAN 10 2006

A06D0176. PAULETTE LOVITZ v. STANLEY LOVITZ.

Paulette Lovitz filed this application for discretionary appeal from an order entered in the parties' divorce proceeding. Ms. Lovitz moved to set aside the divorce decree, alleging that Mr. Lovitz had hidden assets. The superior court denied the motion to set aside. Nevertheless, Ms. Lovitz continued to seek discovery and file motions. The superior court entered its "Final Judgment as to All Issues," ruling that the judgment finalized all matters in the case. The court also awarded Mr. Lovitz OCGA § 9-15-14 attorney fees. Ms. Lovitz then filed this application.

The underlying subject matter of this application is divorce. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). This application is therefore TRANSFERRED to the Georgia Supreme Court.

Court of Appeals of the State of Georgia JAN 10 2006
Clerk's Office, Atlanta

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

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

Will L. Matz, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0177
JERMOND L. GRANT V. THE STATE

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

99015

CR961311MO

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 23 2006**

*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.

Will. L. Mat... [Signature]

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JAN 25 2006

A06D0178. FALLIN v. MERRITT MAINTENANCE & WELDING.

Tony W. Fallin seeks an appeal from an order of the superior court entered December 5, 2005, affirming a ruling of the appellate division of the State Board of Workers' Compensation. Regarding such appeals, OCGA § 34-9-105 (b) provides in part that "if the court does not hear the case within 60 days of the date of docketing in the superior court, the decision of the board shall be considered affirmed by operation of law unless a hearing originally scheduled to be heard within the 60 days has been continued to a date certain by order of the court." The respondent shows that this application was transmitted by the Board to the superior court on August 11, 2005, and states that the appeal was filed in the superior court that same day. The respondent further states that the case was not heard before the entry of the order that is the subject of Fallin's application, nor was a scheduled hearing continued to a date certain. It follows that Fallin's appeal was affirmed by operation of law on October 10, 2005, and it is this date that controls for purposes of filing a timely application for appeal. OCGA § 34-9-105 (d). The subsequent order of the superior court is a mere nullity. *Synthetic Industries v. Camp*, 196 Ga. App. 637 (396 SE2d 518) (1990). Because Fallin's application is untimely, it is hereby *dismissed* for lack of jurisdiction. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 25 2006**

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

The Court of Appeals hereby passes the following order: **MAR 06 2006**

A06D0178. FALLIN v. MERRITT MAINTENANCE & WELDING.

On January 25, 2006, this court issued an order dismissing Tony W. Fallin's application for appeal in a workers' compensation case as untimely filed. Based on information made available in Fallin's original application and in the employer's response, the Court concluded that Fallin's appeal was affirmed by operation of law on October 10, 2005, which appeared to be 60 days after the appeal was docketed in the superior court. See OCGA § 34-9-105 (b). On motion for reconsideration, Fallin shows that although his appeal was transmitted to the superior court on August 11, 2005, his appeal was not actually docketed in the superior court until September 26, 2005. Given this docketing date, it appears that Fallin's appeal in the superior court was affirmed by operation of law on November 25, 2005. Because this Court was closed on December 26 and 27, 2005, Fallin's application filed on December 28, 2005 was timely. See OCGA § 5-6-35 (d). Accordingly, Fallin's motion for reconsideration is hereby GRANTED.

Upon consideration on the merits, Fallin's application for discretionary appeal is hereby GRANTED. Fallin shall have ten days from the date of this order to file a notice of appeal in the superior court. The superior court is instructed 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 **MAR 06 2006**

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

Court of Appeals

of the State of Georgia

ATLANTA, JANUARY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0179

GEORGIA DEPARTMENT OF COMMUNITY HEALTH V. NORTHSIDE
HOSPITAL 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.

94015

2005CV102777 2005CV102773

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 24 2006**

*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.

Will. L. Matia

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

ATLANTA, JANUARY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0180
GLOBAL DIAGNOSTIC DEVELOPMENT, LLC ET AL V. DIAGNOSTIC
IMAGING OF ATLANTA, LLC

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.

94016

2005CV102777 2005CV102773

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 24 2006**

*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.

Willie L. Mat... [Signature]

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

ATLANTA, JANUARY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0181
GLOBAL DIAGNOSTIC DEVELOPMENT, LLC ET AL V. NORTHSIDE HOSPITAL,
INC.

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

94017

2005CV102773 2005CV102777

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 24 2006

*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.

Will. L. Martinez

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

ATLANTA, JANUARY 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0182

PHILIP R. ELLIS ET AL V. KEITH E. JOHNSON, JR., ET AL

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

70015

03CV20976

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 20 2006

*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.

Will L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0183
CHARLES GREENWAY V. GEVITY HR., ET AL

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

95016

2005CV0501S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 30 2006

*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.

Willie L. Martin

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0184

BART L. GRAHAM V. JD DESIGN GROUP, INC. D/B/A JW DESIGNS

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.

96016

04V552

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 26 2006

*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.

Will. L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 10 2006**

A06D0185. GLENDA GAIL HOGAN v. RALPH N. HOGAN.

Glenda Gail Hogan filed this application for discretionary appeal from the superior court's order denying her motion for attorney fees in the parties' divorce action. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). This case is therefore TRANSFERRED to the Georgia Supreme Court.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **JAN 10 2006**

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

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

ATLANTA, JANUARY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0186
SYLVIA GLADOWSKI V. DIVISION OF FAMILY 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.

90016
2005CV95986

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

JAN 26 2006

*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.

Willi L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 27 2006**

A06D0187. WHEELER v. THE STATE.

Donald Wheeler seeks an appeal from an order denying his “extraordinary motion for new trial” in a child molestation case based upon the victim’s recent admission that she had previously made false statements against him. Because Wheeler entered a guilty plea there was no trial and therefore the motion complained of cannot be properly characterized as an extraordinary motion for new trial. *Davis v. State*, 274 Ga. 865, 866 (561 SE2d 119) (2002). Moreover, treating Wheeler’s motion as one to withdraw his guilty plea would serve no valid purpose since “[i]t is well settled that when the term of court has expired in which a defendant was sentenced pursuant to a guilty plea the trial court lacks jurisdiction to allow the withdrawal of the plea.” [Cit.]” Id. at 865. Wheeler’s appeal rights have lapsed and his only available remedy at this time is by way of habeas corpus proceedings. *Foskey v. State*, 232 Ga. App. 303, 304 (501 SE2d 856) (1998). Because Wheeler is not entitled to seek an appeal from the denial of a motion the superior court lacked jurisdiction even to consider, Wheeler’s application for appeal is hereby *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk’s Office, Atlanta **JAN 27 2006**

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

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

Will. L. Mat..., Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 02 2006

A06D0188. King v. Atkins

Under OCGA § 5-6-35 (d), an application for discretionary appeal must include a copy of the judgment for which an appeal is sought, and Court of Appeals Rule 32 (b) requires that copy to be stamped “filed.” King’s application, however, did not contain one. Thus, on January 5, 2006, this Court ordered him to submit a stamped “filed” copy of the judgment appealed within ten days and emphasized that the application would be dismissed if it was not physically received by that deadline. King has failed to submit the requisite stamped “filed” copy of the judgment within that deadline; therefore, this application is ordered DISMISSED. Court of Appeals Rule 7.

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

FEB 02 2006

*I certify that the above is a true extract from
the minutes of 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, JANUARY 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0189
ETHICON INC ET AL V. BELINDA BLACK

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

92016

05CV699W

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JAN 31 2006

*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.

Will. L. Mat...

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 27, 2006

The Court of Appeals passed the following order

Case No. A06D0189

ETHICON INC ET AL V. BELINDA BLACK

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

92-016
05CV599W

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 27, 2006*

*I certify that the above is a true extract from
the minutes of 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. Mat. 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: March 20, 2006

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 **S06C1166**

ETHICON, INC., et al. v. BELINDA BLACK

Clerk, Supreme Court of Georgia

Case No. A06D0189

Court of Appeals of Georgia

Notice of Petition for Certiorari

MAR 22 2006

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: **JAN 20 2006**

A06D0190. HEUVELMAN v. DEVANE.

Upon consideration of the above-styled application for discretionary appeal, the application is hereby DENIED. Respondent's motion for penalty for frivolous application is likewise DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 20 2006**

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

, Clerk.

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

ATLANTA, JANUARY 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0191
CYPRESS INSURANCE COMPANY V. TAMMY DUNCAN 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.

99016

2005CV2420

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 19 2006**

*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.

Will L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0192

OWEN DUNCAN, IV., V. DENISE JONES A/K/A DENISE BAKER

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

91016

2003CV79145

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 06 2006**

*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.

Willi L. McIntosh

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 25 2006**

A06D0193. MAULDIN v. GEORGIA MILITARY COLLEGE, et al.

Richard Mauldin filed an application for appeal on January 9, 2006,¹ from an order of the superior court entered on December 7, 2005, affirming a decision of the appellate division of the State Board of Workers' Compensation. Because Mauldin failed to file his application for appeal with this court within 30 days as required under OCGA § 5-6-35 (d), his application is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 25 2006**

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

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

Will. L. Mat... , Clerk.

¹We note that Mauldin filed his application by certified mail, but failed to have the United States Postal Service postmark date stamped on the envelope or container as required under Court of Appeals Rule (4) (c) (2). Under these circumstances Mauldin's application must be treated as filed on January 9, the date it was physically delivered to the Clerk's office. Court of Appeals Rule (4) (c) (1).

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 02, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0194

AARON LEVON JOHNSON V. THURBERT BAKER ET AL

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

95017

05CV292

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 02 2006

*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.

Willi L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0195

HAROLD C. ROSS V. THE STATE

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

96017

2003C311167

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 06 2006**

*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.

Will L. Martin

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 02, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0196
BOB REESE V. AUGUSTA BUILDING AND CONSTRUCTION, INC.
A/K/A ABC, INC.

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

98017

2005RCSC1332

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 02 2006**

*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.

Will L. Matia

Court of Appeals
of the State of Georgia

ATLANTA, JANUARY 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0197

JAMES PIRTLE V. THE STATE

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

90017

993359

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 30 2006**

*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.

Will. L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0198
MARINA Y. SHLOMOV ET AL V. RIVERMOORE PARK COMMUNITY
ASSOCIATION, 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.

93017

05C066481

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 08 2006**

*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.

Will. L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 26 2006**

A06D0199. FULTON COUNTY BOARD OF EDUCATION v. WEST, et al.

The Fulton County Board of Education filed an application for appeal on January 17, 2006, from an order entered on December 14, 2005, reversing a decision of the State Board of Education and ordering the applicant to admit respondents' children to Fulton County Schools free of charge. The last date on which applicant could have filed a timely application for appeal from the order complained of, however, was on Friday, January 13, 2006. Because applicant failed to file its application within 30 days as required under OCGA § 5-6-35 (d), the application is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JAN 26 2006**

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

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

Willie L. Martin, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 02, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0200
FLOWERS BAKING COMPANY OF VILLA RICA, LLC V. HOWARD
YARBROUGH

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

92017

05V01523

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 02 2006**

*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.

Willie L. Mat... [Signature]

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

ATLANTA, FEBRUARY 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0201
DYNCORP., ET AL V. MARGARITA RUGIO

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

97017

2005CV108246

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 09 2006

*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.

Will. L. Mat...

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0202
CONCHATA S. RICHARDS V. JONATHAN G. STEVENS

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

99017

2005DR36708

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 06 2006**

*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.

Willi L. Martin

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0203
ANETTE COCHRAN V. SOUTHEAST GEORGIA REGIONAL
MEDICAL CENTER

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

91017

CE0501391063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 08 2006**

*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.

Will. L. Mat...

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0204

TIG SPECIALITY INSURANCE. CO. V. DUST-AWAY, 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.

70017

2005CV106564

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 14 2006**

*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.

Will. L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 24 2006**

A06D0205. SMITH et al. v. SAULSBURY.

Defendants David Arnan Smith and T. J. Hunter filed an application for appeal from a final judgment entered in an action for damages totaling \$25,436.00, plus interest and costs. Because the exhibits included with the applicants' submission reveal no circumstance indicating that the applicants are required to follow the discretionary appeal procedure here, their application is hereby *granted* as required under OCGA § 5-6-35 (j). Applicants shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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 **JAN 24 2006**

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

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

Willie L. Martin, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0206

PAYROLL MANAGEMENT, INC., ET AL V. VIRGINIA A. LEWIS

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

96018

CV051395

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 09 2006**

*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.

Willie L. Matiza

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

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 02 2006

A06D0207. JAMES MILTON DENNARD v. THE STATE.

On January 23, 2006, James Milton Dennard, a prison inmate proceeding *pro se*, filed a discretionary application in this Court from the superior court's December 15, 2005 order denying his motion to vacate and void convictions and sentences. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Dennard filed his application 39 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Therefore, Dennard's application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta FEB 02 2006

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 24 2006

A06D0207. JAMES MILTON DENNARD v. THE STATE.

On February 14, 2006, James Milton Dennard, *pro se*, filed a motion for reconsideration of this Court's February 2, 2006 order dismissing his application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within ten days from the rendition of the judgment. Dennard's motion for reconsideration is thus untimely and is hereby DISMISSED.

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

*I certify that the above is a true and correct copy from
the minutes of the Court of Appeals of Georgia.* FEB 24 2006

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

Willie L. Martin, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0208
GLENDA GAIL HOGAN V. RALPH N. HOGAN ET AL

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

90018

05G2108

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 07 2006

*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.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 31 2006**

A06D0209. RICKEY ALAN CASON v. BETTY JEAN BROWN CASON.

Rickey Alan Cason seeks an appeal from an order entered in connection with Betty Jean Brown Cason's motion for contempt in which she sought to enforce a property settlement provision of the parties' final divorce decree. Because the ruling complained of directly addresses enforcement and modification of the non-custodial provisions of a final divorce decree, Cason's application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755 (1) (229 SE2d 744) (1976); compare *Ashburn v. Baker*, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction in contempt action involving child custody issues, but not issues relating to divorce and alimony, is with the Court of Appeals).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JAN 31 2006**

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

Court of Appeals

of the State of Georgia

ATLANTA, FEBRUARY 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0210
DAVID WAYNE MILLS V. LIZ LEWALLEN

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

71018

0511029399

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 17 2006

*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.

Willie L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 15, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0211
WARREN SKILLERN V. WALLACE ROGERS, JR.

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

92018

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 15 2006

*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.

Will. L. Mat...

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.

(404) 656-3470

Docketing Date: February 27, 2006

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 **S06C1074**

WARREN SKILLERN v. WALLACE ROGERS, JR.

Clerk, Supreme Court of Georgia

Case No. A06D0211

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 28 2006

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0212
MORGAN C. SHEPHERD ET AL V. JOHN L. CARTER

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

97018

04CV430W

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 16 2006**

*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.

Will L. Matz

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0213
WAL-MART STORES, INC., ET AL V. ALFONZO PARKER

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.

99018

05CV30569

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 21 2006**

*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.

Will. L. Martinez

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0214
LEBRON FELIX BEENE V. THE STATE

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

91018

05CR16460

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 22 2006

*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.

Willie L. Mat...

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0215
TPS STAFFING, INC., ET AL V. MARC DECOSTA

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

94018

05CV605

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 24 2006

*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.

Willi L. Matia

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0216
DANNY TOWNSEND V. KRISTY LONGORIA

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

70018

05CV571

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 22 2006**

*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.

Willie L. Mat... [Signature]

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

ATLANTA, FEBRUARY 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0217
THOMAS DAVIS III V. THE STATE

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

95019

2005CR0336

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 22 2006

*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.

Will. L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0218

AARON DOVER V. NEMA JO HILL

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

96019

04CV3316

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 17 2006

*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.

William M. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0219
GLEN S. HOLMES ET AL V. THE STATE

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

98019

04R390

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 23 2006**

*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.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

FEB 14 2006

A06D0220. MOREAU v. HAZENBERG.

On December 7, 2005, the trial court filed a stalking protective order in this case enjoining and restraining Moreau from certain conduct for a period of 12 months. On December 30, 2005, Moreau filed a motion for reconsideration, which the trial court denied. On February 6, 2006, Moreau filed this application for discretionary appeal.

Moreau appeals from the issuance of an injunction subject to direct appeal under OCGA § 5-6-34 (a) (4). Under OCGA § 5-6-35 (j), this Court has jurisdiction over “an otherwise timely application” initiating such an appeal. However, an application for discretionary appeal must be filed within 30 days of the order appealed from, and a motion for reconsideration does not extend the time for filing such an application. OCGA § 5-6-35 (d); *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Since Moreau failed to file his application within 30 days of entry of the appealable judgment of December 7, 2005, his application is not timely. This Court therefore lacks jurisdiction over this appeal, which is hereby DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 14 2006

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: **FEB 28 2006**

**A06D0221. CHARLES E. JOHNSON, JR. v. GWINNETT COUNTY JUDICIAL
CIRCUIT.**

Charles E. Johnson, Jr., a prison inmate proceeding pro se, filed this application for discretionary appeal from a December 8, 2005, order dismissing his complaint. Johnson's application was docketed in this Court February 3, 2006.¹

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Johnson filed his application 57 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 28 2006

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

¹Johnson first sent the application to the Court by certified mail on January 10, 2006. The Court rejected it for filing because Johnson failed to include a certificate of service in violation of Court of Appeals Rule 6.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 22 2006**

**A06D0221. CHARLES E. JOHNSON, JR. v. GWINNETT COUNTY JUDICIAL
CIRCUIT.**

On March 17, 2006, Charles E. Johnson, Jr. filed a motion for reconsideration of this court's February 28, 2006 order dismissing his application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be filed within ten days from the rendition of the judgment. Johnson's motion for reconsideration is thus untimely and is DISMISSED.

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

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

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

Willie L. Martinez, Clerk.

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

ATLANTA, MARCH 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0222
LYNN MARIE WESSINGER V. TIMOTHY STEPHEN GRANT

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

71019
05V131

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 9 2006

*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.

Will. L. Matia

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

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 24 2006

A06D0223. BROCHIN v. BROCHIN.

Susan Lisker Brochin filed an application for appeal in the Supreme Court on January 25, 2006, from an order entered on December 23, 2005, temporarily suspending Lisker's visitation rights. The Supreme Court transferred Lisker's application to this court for disposition. Because Lisker failed to file her application with the Supreme Court on or before Monday, January 23, 2006, as required under OCGA § 5-6-35 (d), this court is without jurisdiction to consider the application on the merits. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Accordingly, Lisker's untimely application for appeal is hereby *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 24 2006

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

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

Willie L. Matz, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0224
SHARLENE ROSE BURRELL V. THE STATE

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

97019

03CR33C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 28 2006**

*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.

Will. L. Martinez

Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0225
SHARLENE ROSE BURRELL V. THE STATE

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

97020

03CR175C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 28 2006

*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.

Will L. Martin

Court of Appeals of the State of Georgia

ATLANTA, March 9, 2006

The Court of Appeals hereby passes the following order:

A06D0226. DARYL BAPTISTE v. THE STATE.

On February 10, 2006, Daryl Baptiste filed this application for discretionary appeal from the superior court's January 12, 2006 order denying his motion for reconsideration of the court's December 9, 2005 order denying his request to proceed in forma pauperis. This Court, however, does not have jurisdiction to consider the merits of this application. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). A motion for reconsideration does not extend the time for filing a discretionary application. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, a denial of a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Here, the trial court's order denying Baptiste's request to proceed in forma pauperis – the order properly appealed from – was entered 63 days prior to the date this application was filed. Because the application is untimely, this Court lacks jurisdiction to consider it. For this reason, the application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 9 2006

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

, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 27, 2006

The Court of Appeals passed the following order

Case No. A06D0227

KRISTIN I. SCHENDL V. PAUL L. SCHENDL

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

99-019
2005CV103032

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 27, 2006*

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

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

Clerk.

Will L. Mat... [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470

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

Docketing Date: May 30, 2006

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 **S06C1679**

KRISTIN I. SCHENDL v. PAUL L. SCHENDL

Clerk, Supreme Court of Georgia

Case No. A06D0227

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 07 2006

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0228

LARRY NEACE V. GWINNETT COUNTY BOARD OF EDUCATION

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

91019

05A132192

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 07 2006

*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.

Will. L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0229

AMC INDUSTRIES D/B/A ALLIED READY-MIX, INC., ET AL V.

BRUCE SCOTT

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

94019

051807828

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 10 2006

*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.

Will L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 30, 2006

The Court of Appeals passed the following order

Case No. A06D0229

AMC INDUSTRIES D/B/A ALLIED READY-MIX, INC., ET AL V.
BRUCE SCOTT

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

94-019
051807828

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 30, 2006*

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

(404) 656-3470

Docketing Date: April 19, 2006

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 **S06C1368**

RMC INDUSTRIES, d/b/a ALLIED READY-MIX, INC. v. BRUCE SCOTT

Clerk, Supreme Court of Georgia

APR 20 2006

Case No. A06D0229

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, MARCH 30, 2006

The Court of Appeals passed the following order

Case No. A06D0230

JAMES A. MAYORS V. GEORGIA DEPARTMENT OF LABOR ET AL

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

70-019
2005V1152

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 30, 2006*

*I certify that the above is a true extract from
the minutes of the 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: April 19, 2006

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 **S06C1369**

JAMES A. MAYORS v. GEORGIA DEPARTMENT OF LABOR et al.

Clerk, Supreme Court of Georgia

APR 27 2006

Case No. A06D0230

Court of Appeals of Georgia

APR 27 2006

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: **FEB 23 2006**

A06D0231. ROSE PINKSTON v. KELLOGG COMPANY et al.

On February 15, 2005, Rose Pinkston, acting pro se, filed this second application for discretionary appeal of the order entered October 27, 2005, affirming the award of the State Board of Workers' Compensation denying her claim for workers' compensation benefits. As this Court has already ruled following Pinkston's first untimely application for discretionary appeal under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed with the clerk of this Court within 30 days of the date of entry of the order, decision, or judgment sought to be appealed. This application of Pinkston was not filed until more than three months after the date of entry of the order she seeks to appeal. Accordingly, this Court lacks jurisdiction to consider this application and it is ordered DISMISSED. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983); *Hogan v. Taylor County Bd. of Ed.*, 157 Ga. App. 680 (278 SE2d 106) (1981).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **FEB 23 2006**

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

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

Will. L. Mat...

, Clerk.

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

ATLANTA,

FEB 23 2006

The Court of Appeals hereby passes the following order:

A06D0232. DERRICK DAVIS. v. THE STATE.

On February 13, 2006, Derrick Davis filed this application for discretionary appeal, seeking review of the superior court's January 11, 2006 order revoking his probation. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Davis filed his application in this Court more than thirty days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 23 2006**

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

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

Willie L. Martin, Clerk.

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

ATLANTA, FEBRUARY 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0233
MICHAEL JEROME SIMMONS V. THE STATE

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

90020

02B16981

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 23 2006

*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.

Will L. Mat... [Signature]

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

ATLANTA, FEBRUARY 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0234

NECTASHA HODGES V. WEELS FARGO BANK MINNESOTA ET AL

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

93020

2005CV19285

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

FEB 28 2006

*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.

Will L. Matia

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

ATLANTA, MARCH 14, 2006

The Court of Appeals passed the following order

Case No. A06D0234

NECTASHA HODGES V. WEELS FARGO BANK MINNESOTA ET AL

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

93-020
2005CV19285

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 14, 2006*

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

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

Clerk.

Willie L. Mat... [Signature]

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: March 24, 2006

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 **S06C1215**

NECTASHA HODGES v. WELLS FARGO BANK MINNESOTA et al.

Clerk, Supreme Court of Georgia

Case No. A06D0234

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 30 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, MARCH 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0235

GIRARD L. MCENTEE INSURANCE AGENCY, INC., ET AL V. VALLEY
NATIONAL BANK/DAJOY DIAMONDS

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

71020

04GR020097J 05GR024565C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 10 2006**

*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.

Will. L. Mat... [Signature]

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

ATLANTA, MARCH 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0236

RELIANCE ELECTRIC COMPANY ET AL V. TERESA BRIGHTWELL

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

SU05CV2203J

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR - 9 2006

*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.

Willie L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, FEBRUARY 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0237
BENJAMIN C. FREE V. LANKFORD & ASSOCIATES, INC.

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

99020

04CV654X

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

FEB 28 2006

*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.

Will. L. Martin

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0238
JONITA ANDERSON V. RAYMOND L. DEAS

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

91020

04CV99269

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 20 2006**

*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.

Will. L. Martinez

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

ATLANTA, MARCH 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0239
LARRY S. SONGY V. MICHAEL L. THURMOND

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

94020

2005CV106679

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAR - 9 2006

*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.

Will. L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0240

GEORGE HEWELL, JR. V. WILLIAM W. PURDY, JR., ET AL

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

70020

03CV217

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 10 2006

*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.

Will. L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 15, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0241
LLOYD CLARK GABLE V. THE STATE

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

95021

93FCR43G

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 15 2006

*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.

Will. L. Mat... [Signature]

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

ATLANTA, MARCH 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0242

CHARLES WHITE V. THE STATE

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

96021

99CR318

99CR319

01CR228

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 23 2006

*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.

Will L. Matz

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

ATLANTA, MARCH 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0243

UNION PLANTERS BANK, N.A. V. JAMES H. WALKER, III., 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.

98021

021177534

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 10 2006

*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.

Will. L. Mat. Jr.

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

ATLANTA, MARCH 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0244
PHUONG LE V. WALKER BRAMBLETT

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

90021

05CV1242

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 21 2006**

*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.

Will. L. Mat... [Signature]

New

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 01, 2006

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 **S06C1474**

PHUONG LE v. WALKER BRAMBLETT

Clerk, Supreme Court of Georgia

Case No. A06D0244

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 05 2006

Clerk, Court of Appeals of Georgia

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.

(404) 656-3470

Sherie M. Welch, Clerk

Docketing Date: May 1, 2006

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 **S06C1440**

PHUONG LE v. WALKER BRAMBLETT

Clerk, Supreme Court of Georgia

Case No. A06D0244

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

MAY 04 2006

Void

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0245

LEON POOLE V. THE STATE

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

93021

2004SUR298

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 10 2006**

*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.

Willi L. Martin

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

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 22 2006

A06D0246. IN THE INTEREST OF JOSEPH D. TREGAEGLE.

Joseph D. Tregagle filed the instant application for discretionary appeal of the trial court's denial of his Petition to Annul Adult Adoption on the ground that the Georgia Code does not provide authority for the vacation, withdrawal or annulment of a legal adoption. The 1941 Georgia adoption law which provided grounds upon which an adoption decree might be set aside was completely repealed in 1977. See *Wojciechowski v. Allen*, 238 Ga. 556 (234 SE2d 325) (1977). "[W]hen[, as here,] a provision . . . is entirely omitted from the succeeding [] act, the omission must be held to have been intentional and to have effected the repeal of the omitted provision in the previous statute." *Pate v. Foss*, 157 Ga. 579, 584 (122 SE 238) (1924). Accordingly, the instant application for discretionary appeal is hereby **DISMISSED**.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 22 2006

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 10 2006**

A06D0247. ANTHONY B. KING v. THE STATE.

Anthony B. King, pro se, filed this application for discretionary appeal from the trial court's January 23, 2006 order denying his motion for post-conviction relief. The application was docketed in this Court on February 27, 2006.

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA §6-35 (d). Because King filed his application 35 days after entry of the order he seeks to appeal, it is untimely and is **DISMISSED** for lack of jurisdiction.

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

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

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

Will L. Mat... , Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 27, 2006

The Court of Appeals passed the following order

Case No. A06D0247

ANTHONY B. KING V. THE STATE

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

92-021
0000678

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR 27, 2006*

*I certify that the above is a true extract from
the minutes of the 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, APRIL 04, 2006

The Court of Appeals passed the following order

Case No. A06D0248

RALPH J. VILLANI V. RALPH E. HUGHES

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

97-021
05C154263

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 04, 2006*

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

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

Clerk.

Will. L. Mat... [Signature]

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: April 24, 2006

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 **S06C1399**

RALPH J. VILLANI v. RALPH E. HUGHES

Clerk, Supreme Court of Georgia

Case No. A06D0248

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 27 2006

Clerk, Court of Appeals of Georgia

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 27, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0249

ALFRED BURGEST V. THE STATE

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

99021

96CR210

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

MAR 27 2006

*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.

Will. L. Martin

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

ATLANTA, APRIL 17, 2006

The Court of Appeals passed the following order

Case No. A06D0249

ALFRED BURGEST V. THE STATE

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

99-021
96CR210

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 17, 2006*

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

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

Clerk.

Will L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, MARCH 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0250
DAVID TIMOTHY MOORE V. GEORGIA DEPARTMENT OF ADMINISTRATIVE
SERVICES ET AL

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

91021

2005CV107657

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAR 23 2006**

*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.

Will. L. Matia

Court of Appeals of the State of Georgia

ATLANTA,

MAR 15 2006

The Court of Appeals hereby passes the following order:

A06D0251. JERRY COLLIER v. POLICE OFFICER D. C. STEPNOWSKI et al.

Jerry Larry Collier filed suit against Officer Stepnowski and the DeKalb County Commissioners for false arrest, false imprisonment, and malicious prosecution. The trial court entered summary judgment for the defendants. Collier filed a direct appeal and an application for discretionary appeal from that judgment. The judgment at issue is directly appealable. Accordingly, this application is superfluous and is hereby DISMISSED.

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

I certify that the above is a true and correct copy of the minutes of the Court of Appeals of Georgia.

MAR 15 2006

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

Will L. Mat... Clerk.

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

ATLANTA, MARCH 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0252
WARREN SKILLERN V. KATHY CARTER ET AL

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

70021

05CV1857

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAR - 9 2006

*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.

Willie L. Mat... [Signature]

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: March 22, 2006

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 **S06C1224**

WARREN SKILLERN v. KATHY CARTER et al.

Clerk, Supreme Court of Georgia

Case No. A06D0252

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 22 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA,

MAR 20 2006

The Court of Appeals hereby passes the following order:

**A06D0253. GATEWAY EQUITIES CORPORATION et al. v. DOUGLAS
COUNTY et al.**

Gateway Equities Corporation, Robert Greer, and Robert Thwaite have filed this application for discretionary appeal seeking review of the trial court's order, granting summary judgment in favor of defendants, which effectively denied their motion seeking mandamus relief. Under Ga. Const. 1983, Art VI, Sec VI, Par. III (5) and OCGA § 9-6-28 (a), the Supreme Court has jurisdiction over appeals involving extraordinary remedies such as mandamus. *James v. State*, 120 Ga. App. 317 (170 SE2d 303) (1969). Accordingly, this application is ordered TRANSFERRED to the Supreme Court.

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

MAR 20 2006

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

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

Willie L. Martinez, Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0255
JAMES ALVIN OLIVER V. THE STATE

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

98022

99F07232

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 20 2006

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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 above written.*

Clerk.

Will. L. Mat... [Signature]

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

ATLANTA, MARCH 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0256

TUCKER CONCRETE COMPANY, INC. V. NID SERVICES, INC. ET AL

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

90022

200215212

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 30 2006

*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.

Will. L. Mat... [Signature]

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

ATLANTA, MARCH 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0258
RHANELDA JONES ET AL V. PATRICIA DAMIANO

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

71022

05CV3695

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 24 2006**

*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.

Willi L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0259

JOSEPH BROWN V. THE STATE

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

92022

001611

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 07 2006

*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.

Will. L. Mat... [Signature]

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: April 25, 2006

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 **S06C1398**

JOSEPH BROWN v. THE STATE

Clerk, Supreme Court of Georgia

APR 27 2006

Case No. A06D0259

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: APR 04 2006

A06D0260. GHEE v. TARGET NATIONAL BANK f/k/a Retailer National Bank-Target Visa.

Dedra Ghee filed a pro se application for discretionary appeal on March 10, 2006, from a final judgment entered on January 9, 2006, as well as from a subsequent decision of the trial court on February 13 denying Ghee's poverty affidavit. As it relates to the final judgment, Ghee's application for appeal is clearly untimely and cannot be considered.¹ As it relates to the denial of her poverty affidavit, the matter is not subject to the discretionary appeal procedure² and therefore her application for appeal from that decision is *granted* as required under OCGA § 5-6-35 (j). Ghee shall

¹We note that Ghee's exhibits indicate that Ghee also filed a notice of appeal in this case on February 6, 2006. Ghee is apparently under the impression that her appeal has been rendered untimely as the result of the trial court's decision a week later to reject her poverty affidavit. Whether Ghee's direct appeal should be treated by this court as untimely filed due to the trial court's determination on the sufficiency of Ghee's pauper's affidavit is not currently before us.

²We disagree with respondent's suggestion that the subject matter of this application is a money judgment totaling less than \$10,000 within the meaning of OCGA § 5-6-35 (a) (6). The respondent fails to include in its calculation the attorney's fees awarded under OCGA § 13-1-11 (a), which are expressly treated by that Code section "as a part of" Ghee's total debt. Compare *MTW Investment Co. v. Vanguard Properties Financial Corp.*, 256 Ga. 318 (349 SE2d 749) (1986) (attorney's fees awarded under OCGA § 13-6-11 are expressly treated "as a part of the damages" and are therefore treated as such when considering the applicability of OCGA § 5-6-35 (a) (6)).

have ten days from the date of this order to file a notice of appeal with the state court.
The state court is instructed 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 APR 04 2006

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

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hereto affixed the day and year last above written.*

Will. L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 21 2006**

A06D0261. Broady v. The State

Danny W. Broady seeks discretionary review of the trial court's order denying his Motion for Withdraw of Guilty Plea. The order Broady seeks to appeal was entered in the trial court on February 3, 2006.¹ This application was not filed until March 13, 2006. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Broady filed his application more than 30 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Therefore, Broady's application is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 21 2006**

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

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

Willie L. Mat... , Clerk.

¹Broady first sent an application to this Court on February 14, 2006. The Court rejected it for filing because Broady failed to include the filing fee or a pauper's affidavit in violation of Court of Appeals Rule 31 (c). Broady sent the application again on February 27, 2006. However, the Court again rejected the application for filing because Broady failed to attach a filed stamped copy of the order sought to be appealed in violation of Court of Appeals Rule 31 (d).

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0262
FRANK J. LINEBERGER, JR. V. THE STATE

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

91022

98CR10763

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 12 2006

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

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

Clerk.

Will L. Mat... [Signature]

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0263

SHERYL PRICE V. GEORGIA DEPARTMENT OF REVENUE

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

94022

0407321

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 31 2006

*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.

Will L. Martinez

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

ATLANTA, MARCH 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0264
CAREMORE, INC./WOODDALE, NURSING HOME ET AL V.
CHARLOTTE HOLLIS

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

92400-M

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

MAR 30 2006

*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.

Will L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0265

LEE SINCLAIR V. THE STATE

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

95023

55052

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 06 2006**

*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.

Will L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

APR 11 2006

The Court of Appeals hereby passes the following order:

A06D0266. VAN DETTA v. VAN DETTA.

Gina Van Detta seeks a discretionary appeal from several rulings entered in a pending divorce case. A ruling presented in Van Detta's application that is neither effectively moot nor otherwise subject to the interlocutory appeal procedure is that portion of the contempt order entered on February 28, 2006, awarding attorney's fees under OCGA § 19-6-2 in the amount of \$2000.00. See *Russo v. Manning*, 252 Ga. 155 (312 SE2d 319) (1984). Such an award is effectively an award of alimony. *Scott v. Scott*, 251 Ga. 619 (308 SE2d 177) (1983). We are mindful that the contempt order at issue here relates to a finding that Van Detta failed to allow visitation as directed and that such issues are considered by the Supreme Court to be within the appellate jurisdiction of the Court of Appeals. *Egeland v. Egeland*, 279 Ga. 565 (619 SE2d 596) (2005). But Van Detta asserts, among other things, that as a result of the award of attorney's fees she can no longer afford an attorney of her own to assist her in her divorce case. Because this application involves an award of alimony and because the issues raised by Van Detta clearly involve "divorce and alimony" in addition to issues of visitation, her application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6).; *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); 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).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2006

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

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

Willie L. [Signature]

, Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, MARCH 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0267

LEROY NEWKIRK V. THE STATE

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

98023

42126

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAR 31 2006

*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.

Will L. Mat... A

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0268
DONALD CARTEN, SR. V. PHYLLIS WOODS

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

90023

05CV03597

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta APR 06 2006

*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.

Will L. Matz

 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0269
REY DAVID VARGAS V. ALLEN AULT ET AL

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

93023

2005NH15

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 17 2006

*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.

Willie L. Mat... A

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 15, 2006

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 **S06C1530**

REY DAVID VARGAS v. ALLEN AULT et al.

Clerk, Supreme Court of Georgia

Case No. A06D0269

MAY 19 2006

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, APRIL 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0270
MICHAEL H. KORTH V. AIMEE BARON

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.

71023
05CV01304

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

APR 03 2006

*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.

Will. L. Mat... [Signature]

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

ATLANTA, APRIL 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0271

JUDEE J. HAAS V. GEORGIA DEPARTMENT OF REVENUE ET AL

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

92023

2003CV71070

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 19 2006

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



 Court of Appeals
of the State of Georgia

ATLANTA, APRIL 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0272

CHRIS COX V. JIMMY TURNER

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

97023

02CV364C

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 14 2006**

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

Clerk.
Willi L. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 27 2006

A06D0273. Dan F. Harper v. Kristen N. Harper

Dan F. Harper filed this application for discretionary appeal seeking review of his final judgement and decree of divorce. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). In this application, Harper states that he filed an application with the Supreme Court; however, the Supreme Court denied the application finding it did not fall within the parameters of its pilot project in divorce and alimony cases. Harper contends this action by the Supreme Court places jurisdiction in this Court. However, the Supreme Court's denial of his application was *res judicata* and does not confer jurisdiction upon this Court. *McLemore v. Stephenson*, 181 Ga. App. 828, 829 (354 SE2d 17) (1987). This Court lacks jurisdiction to consider this application and it is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAR 27 2006**

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hereto affixed the day and year last above written.*

Will. L. Martin, Clerk.

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

ATLANTA, APRIL 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0274
SHAPIRO PACKING COMPANY ET AL V. MICHAEL A. LEE

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

91023

2006RCCV0000

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 14 2006

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

Clerk.

Will L. Mat... [Signature]

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

ATLANTA, MAY 08, 2006

The Court of Appeals passed the following order

Case No. A06D0274

SHAPIRO PACKING COMPANY ET AL V. MICHAEL A. LEE

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

91-023
2006RCCV0000

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 08, 2006*

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

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

Clerk.

Willie L. Martinez

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

ATLANTA, APRIL 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0275

DONALD RICHARD JENSEN, JR., V. JAMIE SUZANNE JENSEN

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

94023

04V547M

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 20 2006

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

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

Clerk.

Will. L. Mat... [Signature]

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

ATLANTA, MAY 12 2006

The Court of Appeals hereby passes the following order:

A06D0276. MAX H. BOLDON, JR. v. BRENDA GRAY BOLDON.

Upon consideration of the application for discretionary appeal, it is ordered DENIED. Respondent's motion for frivolous appeal penalty is likewise DENIED.

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

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

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

Will. L. Matz

, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

MAR 28 2006

**A06D0277. RODNEY PREWITT v. PROFESSIONAL STANDARDS
COMMISSION OF THE STATE OF GEORGIA.**

Rodney Prewitt filed an application for discretionary appeal in this Court on March 23, 2006, from an order entered on February 1, 2006, affirming the final decision of the Professional Standards Commission revoking Prewitt's teaching certificate. Because Prewitt failed to file his application for appeal in this Court within 30 days of the entry of the order complained of as required under OCGA § 5-6-35 (d), Prewitt's application is hereby DISMISSED for lack of jurisdiction. *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 28 2006

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 20 2006**

A06D0278. McCORMICK v. BOYLAN, et al.

Upon consideration of the above styled application for appeal, the application is *denied*. Applicant's motions to strike and for sanctions are likewise *denied*.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **APR 20 2006**

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

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hereto affixed the day and year last above written.*

Will. L. Mat... , Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 09, 2006

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 **S06C1493**

GEORGE M. MCCORMICK v. MARISSA BOYLAN et al.

Clerk, Supreme Court of Georgia

Case No. A06D0278

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 19 2006

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: APR 03 2006

A06D0279. Shelbra Long d/b/a Better Breathers Healthcare Consultants LLC v. Harper

Shelbra Long d/b/a Better Breathers Healthcare Consultants LLC (“Long”) seeks discretionary review of a final judgment in favor of Adrian Harper, Chera Harper, Keith Hopper d/b/a The Respiratory Agency (Florida) entered in the trial court on February 21, 2006. This application for discretionary appeal was filed on March 24, 2006. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Long filed this application more than 30 days after entry of the order she seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Therefore, Long’s application is ordered DISMISSED.

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

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

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

W. L. Martin, Clerk.

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

ATLANTA, APRIL 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0281

STEVEN WEST CUSTOM HOMES, INC., V. JOE DIBENEDETTO ET AL

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

93024

05SC0871

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 26 2006

*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.

Will. L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: APR 07 2006

A06D0282. WILLIAM R. JACKSON v. GEORGIA STATE BOARD OF PARDONS AND PAROLES.

William R. Jackson, a pro se prison inmate, has filed an application for discretionary appeal from the superior court order denying the filing of his complaint. In the complaint, Jackson sought to have the superior court compel the State Board of Pardons and Paroles to release him on parole immediately.

Jackson's post-conviction suit against the parole board is in substance a petition in the nature of mandamus. *Daker v. Ray*, 275 Ga. 205 (563 SE2d 429) (2002) (trial court erred in refusing to allow filing of prisoner's petition for mandamus as to the claim for timely parole consideration); *Ray v. Barber*, 273 Ga. 856 (548 SE2d 283) (2001) (mandamus appropriate where the Board had followed neither its statutory duties nor its own adopted rules in determining a tentative parole month for an inmate). The Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); see *Settle v. McWhorter*, 203 Ga. 93 (1) (45 SE2d 210) (1947). Accordingly, this case is TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 07 2006

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*Witness my signature and the seal of said court
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Will. L. Martinez, Clerk.

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

ATLANTA, APRIL 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0283

WAYNE GOSWICK V. MURRAY COUNTY BOARD OF EDUCATION 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.

92024

NONE

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 19 2006

*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.

Will L. Matz

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 20 2006**

A06D0284. DURDEN v. BUTLER.

Laurie M. Durden seeks an appeal referencing: an interlocutory order entered on April 30, 2004 denying her motion to enforce a settlement agreement; a final order on petition for modification of custody entered on June 29, 2005, and; an order entered on March 1, 2006, denying what is described as a “motion for new trial”. Because Durden has failed to include a copy of her “motion for new trial” in her application, we cannot assume that the motion was sufficient to extend the time for filing an application for appeal as provided under OCGA § 5-6-35 (d).¹ See generally *Underwood v. Lanier Home Center, Inc.*, 239 Ga. App. 282 (521 SE2d 207) (1999) (motion styled a “motion for new trial” deemed a motion for reconsideration that does not extend the time for filing an appeal). Because Durden’s application was not filed within 30 days of the final judgment and because Durden does not otherwise demonstrate that her application was timely filed under OCGA § 5-6-35 (d), the application is *dismissed* for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk’s Office, Atlanta

APR 20 2006

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

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

Willie L. Matz, Clerk.

¹“The application shall be filed with the clerk of the Supreme Court or the Court of Appeals within 30 days of the entry of the order, decision, or judgment complained of and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties as provided by law, except that the service shall be perfected at or before the filing of the application. When a motion for new trial, a motion in arrest of judgment, or a motion for judgment notwithstanding the verdict has been filed, the application shall be filed within 30 days after the entry of the order granting, overruling, or otherwise finally disposing of the motion.”

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 17 2006**

A06D0284. DURDEN v. BUTLER.

We dismissed the above styled application for appeal on April 20, 2006, due to applicant Laurie M. Durden's failure to file the application within 30 days of the final judgment, or, in the alternative, to demonstrate that the application is timely based on the proper filing of a motion for new trial. On May 5, 2006, Durden filed her motion for reconsideration from our dismissal order. Durden acknowledges that her motion for reconsideration is untimely filed, but asserts that the delay "is due to providential cause." Specifically, she shows that the Court's dismissal order was mailed by the Clerk's office to the wrong address. Court of Appeals Rule 37 (b), however, provides in part that "[n]o extension of time [to file a motion for reconsideration] shall be granted except for providential cause *on written application made before the expiration of 10 days.*" (Emphasis supplied.) Since Durden requested a copy of the order dismissing her application on April 27, 2006, she certainly should have anticipated that she would need to apply for an extension of time to file a potential motion for reconsideration, yet no such application was made. Because Durden failed to follow the appropriate procedure to obtain an extension of time to file a motion for reconsideration from our prior dismissal order, the motion is *dismissed* as untimely filed.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 17 2006**

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

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

ATLANTA, APRIL 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0285
EBERHARDT & BARRY, INC., V. ROBERT NYSTROM ET AL

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

99024

04CV27369 04CV27355

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 20 2006**

*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.

Willie L. Matz

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 09, 2006

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 **S06C1511**

EBERHARDT & BARRY, INC. v. *ROBERT NYSTROM et al.*

Clerk, Supreme Court of Georgia

Case No. A06D0285

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 19 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0286
MACON-BIBB COUNTY PLANNING & ZONING COMMISSION V. ROBERT
NYSTROM ET AL

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

99025

04CV27369 04CV27355

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

APR 20 2006

*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.

Will. L. Mat... [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 10, 2006

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 **S06C1513**

MACON-BIBB COUNTY PLANNING & ZONING COMMISSION et al. v. ROBERT NYSTROM et al.

Clerk, Supreme Court of Georgia

Case No. A06D0286

Court of Appeals of Georgia

MAY 19 2006

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: **APR 20 2006**

A06D0287. BETTY ANN BYRD v. ANN J. HERRERA.

Ann J. Herrera filed a petition for approval of an estate distribution plan in the Fulton County Probate Court, which approved the plan over Betty Ann Byrd's objections. Byrd then filed an appeal from the probate court's order to the Fulton Superior Court, which dismissed the appeal on the basis that it lacked jurisdiction. Byrd subsequently filed a "Notice of Appeal" and "Notice of Intention to Petition for Certiorari" in the Supreme Court. Because these documents were filed with the Supreme Court, and not in the Fulton Superior Court, the Supreme Court treated them as an application for discretionary appeal. See OCGA § 5-6-37 (a); OCGA § 5-6-35 (d). The Supreme Court transferred the cases to this Court, however, on the basis that the superior court's order dismissing the appeal in that court did not invoke the Supreme Court's subject matter jurisdiction.

In an instance such as this one, an appeal from an order dismissing an appeal is not subject to the discretionary appeal procedure requirements of OCGA § 5-6-35 and is thus directly appealable. Compare OCGA § 5-6-35 (a) (1) (appeals from decisions of superior courts reviewing decisions of probate courts not subject to the discretionary appeal requirement.) This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j), if the order is subject to direct appeal. Because Byrd's appeal does not require a discretionary application and her application was timely, this application is GRANTED as required under OCGA § 5-6-35 (j). Byrd shall have ten days from the date of this order to file a notice of

appeal with the Fulton Superior Court. The superior court is instructed 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 **APR 20 2006**

I certify that the above is a true extract from the minutes of 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 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0288

LEYRA REYES V. MARY ANN INDUSTRIES C/O STAFF USA, INC., ET AL

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

94024

06V00153

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 20 2006

*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.

Will. L. Matia

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 02, 2006

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 **S06C1481**

LEYRA M. REYES v. MARY ANN INDUSTRIES c/o STAFF USA, INC., et al.

Clerk, Supreme Court of Georgia

Case No. A06D0288

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 08 2006

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: APR 11 2006

A06D0289. KATHY NOBLE v. KAREN LAYMAN.

Karen Layman filed a dispossessory action against Gary and Kathy Noble, who answered and counterclaimed. The superior court granted Layman's motion to compel payment of rent into court. Kathy Noble filed this application for discretionary appeal of that order.

The record indicates that the Nobles' counterclaim remains pending and that no writ of possession has been entered. The order Noble seeks to appeal is interlocutory, and she was required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b). Noble's failure to follow these mandatory procedures deprives this court of jurisdiction to consider her application. *Rivera v. Housing Authority of Fulton County*, 163 Ga. App. 648 (295 SE2d 336) (1982); *Wall v. T. J. B. Services*, 141 Ga. App. 437 (233 SE2d 810) (1977); see also *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991) (certificate of immediate review required even where non-final order appealed from is otherwise governed under OCGA § 5-6-35). Noble's application for discretionary appeal is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 11 2006

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

The Court of Appeals hereby passes the following order: APR 17 2006

A06D0290. MATTHEW D. CUYLER v. NOLA JACKSON et al.

Matthew D. Cuyler filed an application from a final judgment of dismissal entered in an action for damages. Because the exhibits included in the application reveal no circumstance indicating that Cuyler was required to follow the discretionary appeal procedure, his application is GRANTED as required under OCGA § 5-6-35 (j). Cuyler shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court clerk is instructed 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* APR 17 2006

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **APR 26 2006**

A06D0291. WILLIAMS v. ADAMS, et al.

Lillie J. Williams filed a personal injury action in magistrate court against Shannon Adams and Adams' insurer, Allstate Insurance Company. The magistrate court entered a judgment in favor of the defendants and Williams appealed to superior court. Williams seeks an appeal from an order of the superior court dismissing defendant Allstate from the case. Because the case remains pending against defendant Adams, Williams was required to follow the interlocutory appeal procedures of OCGA § 5-6-34 (b). *Bailey v. Bailey*, 266 Ga. 832 (471 SE2d 213) (1996); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991); *Gray v. Springs*, 224 Ga. App. 427 (481 SE2d 3) (1997). Because Williams failed to secure a timely certificate of immediate review before filing her application for appeal, the application is hereby *dismissed* without prejudice as premature.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 26 2006**

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

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

Willie L. Martin

, Clerk.

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 06, 2006

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 **S06C1536**

LILLIE J. WILLIAMS v. SHANNON ADAMS et al.

Clerk, Supreme Court of Georgia

Case No. A06D0291

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 19 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, APRIL 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0292

PHILIP GREGG GIBSON V. LISA SINGER WATSON

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

98025

SU04CV1722

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 21 2006**

*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.

Will. L. McIntire

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

ATLANTA, MAY 12, 2006

The Court of Appeals passed the following order

Case No. A06D0292

PHILIP GREGG GIBSON V. LISA SINGER WATSON

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

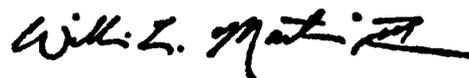
98-025
SU04CV1722


*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 12, 2006*

*I certify that the above is a true extract from
the minutes of the 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: **APR 20 2006**

A06D0293. STEVEN G. MITCHELL v. THE STATE.

Steven G. Mitchell was convicted of child molestation in Butts County Case Number 2002R318 and was sentenced to thirty years, with eighteen years to serve and the balance on probation. He then filed a motion for new trial. The State, however, filed a motion to correct sentence, which was assigned a different lower court case number – 2003R82. On August 11, 2003, the superior court ordered certain corrections to Mitchell's sentencing sheet and ordered the two cases consolidated for purposes of post-conviction relief. On April 13, 2004, the trial court denied Mitchell's motion for new trial, and on May 6, 2004, Mitchell filed a notice of appeal from this order. That appeal was docketed in this Court as appeal number A04A2368.

On August 16, 2004, however, Mitchell, acting *pro se*, filed another notice of appeal, stating that he was giving notice that he was filing an application for discretionary appeal to this Court. Mitchell in fact did so, and the application was docketed in this Court as A05D0001, which this Court dismissed on August 27, 2004. Mitchell, *pro se*, then filed another notice of appeal, which was docketed in this Court as A05A0189. This Court dismissed A05A0189 on the basis that Mitchell did not specify which order he sought to appeal. In that order, this Court also observed that the documents in the record on appeal in A05A0189 should have been included with the record in appeal number A04A2368. Accordingly, this Court ordered that the record in A05A0189 be attached to and made a part of the record in appeal number A04A2368.

On October 20, 2004, this Court remanded A04A2368 to the trial court for appointment of new appellate counsel for Mitchell and indicated that “[a]fter such appointment, defendant shall have the right to file an out-of-time appeal.”

Mitchell apparently filed a notice of appeal on January 15, 2006, in the Butts Superior Court under case number 2002R318. The superior court dismissed this notice of appeal on March 8, 2006, on the basis that it was filed more than thirty days after a final judgment had been entered in the case. On that same day, March 8, 2006, the superior court entered a separate order under case number 2003R82 granting Mitchell an out-of-time direct appeal and appointing counsel for him "[i]n accordance with the Order dated October 20, 2004, from the Georgia Court of Appeals."

On March 30, 2006, Mitchell filed an application for discretionary appeal to this Court seeking review of both the order dismissing his appeal in 2002R318 and the order granting him an out-of-time appeal in 2003R82. Both of these orders, however, provide Mitchell with the right of direct appeal and are not subject to the discretionary appeal requirements. 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 no notice of appeal has been filed in the case. Because Mitchell's appeal does not require a discretionary application, and no notice of appeal has been filed, this application is GRANTED as required under OCGA § 5-6-35 (j). Mitchell shall have ten days from the date of this order to file a notice of appeal with the superior court. Once a notice of appeal has been filed in the case, the superior court is instructed to consolidate the records in its case numbers 2002R318 and 2003R82 for transmittal to this Court for docketing. The superior court is also instructed 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*

APR 20 2006

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

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

Willie L. Martinez
Clerk.

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

ATLANTA, APRIL 27, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0294

COCA-COLA ENTERPRISES, INC., V. STEPHANIE BANKS

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

93025

2005CV44678

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 27 2006**

*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.

Will. L. Martin

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

ATLANTA, APRIL 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0295
MICHAEL F. CAHILL V. FAYE WOLF

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

71025

05SV933

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 13 2006**

*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.

Will L. Mat... [Signature]

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

ATLANTA, APRIL 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0296
EDWARD BARBER V. JOHNNY SIKES ET AL

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

92025

200SNH20

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

APR 26 2006

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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 above written.*

Clerk.

Will. L. Matz

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

ATLANTA

The Court of Appeals hereby passes the following order:

MAY 03 2006

A06D0297. MARTIN MARIETTA MATERIALS ET AL v. MANUEL MEDINA

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

97-025

2001456

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

MAY 03 2006

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

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

Willie L. Martin Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 02 2006**

A06D0298. Frank Meredith v. Webvan, American Casualty Company of Reading, PA.

In this workers' compensation case, Frank Meredith filed this application for discretionary appeal seeking review of the superior court's order, which reversed a decision of the Appellate Division of the State Board of Workers' Compensation finding it acted in excess of its powers and issued a decision contrary to law. However, the order appealed to the superior court was an interlocutory ruling and the superior court lacked jurisdiction to decide the case. *Cartwright v. Midtown Hospital*, 243 Ga. App. 828 (534 SE2d 504) (2000).

Only final awards or final decisions may be appealed to the superior court. OCGA § 34-9-105 (b). In this case, the appellate division's order adopting the ALJ's order denying the employer's motion to dismiss was not a final award. It was an interlocutory order in that it did not grant or deny compensation. The superior court should have declined to review the appeal because such interlocutory appeal is unauthorized under the Workers' Compensation Act. The Workers' Compensation Act makes no provision for an appeal to the superior court from a decision by the Appellate Division other than one which grants or denies compensation.

Accordingly, this application is GRANTED. The superior court's order is

reversed, and the superior court is directed instead to dismiss the appeal as premature.¹
See *GAC, MFG/Processing v. Busbin*, 233 Ga. App. 406 (504 SE2d 270) (1998).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 02 2006**

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

¹This application is granted and remanded in the same order in accordance with *Davidson v. Callaway*, 274 Ga. 813, 814 n.1 (559 SE2d 728) (2002).

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 08 2006**

A06D0299. JAMES E. THOMPSON v. THE STATE.

On April 11, 2006, James E. Thompson filed an application for discretionary appeal, seeking review of the superior court's March 9, 2006, order of commitment. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of entry of the order sought to be appealed. Thompson's application was not filed until 33 days after the entry of the March 9, 2006, order. This Court lacks jurisdiction to consider an untimely application for discretionary appeal. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Therefore, this application is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 08 2006**

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

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

Will. L. Mat... , Clerk.

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

ATLANTA, MAY 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0300
HAROLD L. RUSHING V. C. BROWN TRUCKING, INC

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

70025

2006CV110835

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 08 2006

*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.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 02 2006**

A06D0301. GREGORY T. MORGAN v. THE STATE.

Gregory T. Morgan, who is proceeding pro se, filed this discretionary application seeking review of the denial of his "Petition for Judge Disqualification" and his extraordinary motion for new trial. Morgan has already challenged his conviction by direct appeal to this Court and the judgment was affirmed. *Morgan v. State*, 226 Ga. App. 327 (486 SE2d 632) (1997). This Court's affirmance is res judicata. See *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991). Because we conclude that in this application Morgan is effectively seeking an unauthorized second appeal challenging his convictions, the application is improper and is therefore *DISMISSED* for lack of jurisdiction. *Jones v. State*, 278 Ga. 669 (604 SE2d 483) (2004); *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001).

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

MAY 02 2006

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

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 30, 2006

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 **S06C1652**

GREGORY T. MORGAN v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A06D0301

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 02 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, MAY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0302

PERRY SMITH 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.

96026

SU05CR1445

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 12 2006

*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.

Will. L. Martinez

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

ATLANTA, JULY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0303

RICHARD SEAN GALLAHER V. MARY TERESE BREAU, F/K/A MARY
TERESE GALLAHER

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.

98026

06100272742

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 11 2006**

*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.

Will L. Matia

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 03 2006**

A06D0304. BP Amoco Corporation/Amoco Fabrics & Fibers Co., et al. v. Eliza Mae Burks

BP Amoco Corporation/Amoco Fabrics & Fibers Co. and Esis, Inc.'s withdrawal of this application is GRANTED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **MAY 03 2006**

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

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

Willie L. Matz, Clerk.

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

ATLANTA, MAY 12 2006

The Court of Appeals hereby passes the following order:

**A06D0305. ANDREKA EBERHART ET AL. v. DEUTSCHE BANK NAT'L
CO.**

Andreka Eberhart, a *pro se* litigant, has filed this application for discretionary appeal seeking review of a magistrate court order in a dispossessory case. Under OCGA §15-10-41 (b) (1), however, a judgment of a magistrate court may only be appealed to a state or superior court. Eberhart's failure to first appeal to the state or superior court deprives this Court of jurisdiction to consider this appeal. See *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). This application is accordingly DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 12 2006

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

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 06 2006

**A06D0305. ANDREKA EBERHART ET AL. v. DEUTSCHE BANK NAT'L
CO.**

Andreka Eberhart filed an application for discretionary appeal seeking review of an "Order on Plaintiff's Motion for Payment of Rent Pending Appeal and Writ of Possession." The order is captioned: "IN THE MAGISTRATE COURT OF CLAYTON COUNTY." On May 12, 2006, this Court dismissed the application on the basis that a judgment of a magistrate court may only be appealed to a state or superior court under OCGA § 15-10-41 (b) (1). Eberhart correctly contends, however, that the order in fact is signed by a judge who marked through the word "Magistrate" below his signature on the last page of the order, and replaced it by writing by hand the word "Superior," referring to the court for which he is a judge. Close inspection also reveals that the order is stamp-filed in the superior court. Accordingly, Eberhart did in fact properly file an application to this Court from a judgment of the superior court. Thus, the motion for reconsideration is GRANTED and the application is REINSTATED.

Upon consideration of the application on its merits, however, the application is DENIED.

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

JUN 06 2006

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

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

Will L. Mat..., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 19 2006**

A06D0306. AMERICAN HOME EQUITY LOAN CORPORATION v. DICKEY BROADCASTING COMPANY.

American Home Equity Loan Corporation has filed an untimely application for discretionary appeal. The order at issue was entered on November 23, 2005, and American Home Equity did not file its application until April 21, 2006. OCGA § 5-6-35 (d) requires that applications for discretionary appeal must be filed within 30 days of the entry of the order or judgment complained of. No extensions of time are permitted for filing discretionary applications. See *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001); Court of Appeals Rules 16 (c) and 31 (f). Although the trial court attempted to provide jurisdiction for this Court by entering an order to allow an out-of-time appeal, it could not do so. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983) (trial court lacks authority to grant an extension of time for filing an application for discretionary appeal.) When, as here, an application for discretionary appeal is not filed timely, the appeal must be dismissed for lack of jurisdiction. See *Rosenstein*, supra. This application therefore is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 19 2006**

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

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

Willie L. Matz, Clerk.

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

ATLANTA, MAY 12 2006

The Court of Appeals hereby passes the following order:

A06D0307. SAVICKELLY F. DIXON v. THE STATE.

On March 1, 2006, Savickelly F. Dixon filed this discretionary application seeking to appeal the January 26, 2006 order denying his extraordinary motion for new trial.¹ An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Dixon filed his application more than 30 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, this application is ordered DISMISSED.

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

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the minutes of the Court of Appeals of Georgia.*

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

Will. L. Matia, Clerk.

¹Dixon filed his application in the Supreme Court, which found that it lacked jurisdiction and therefore transferred it here.

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

ATLANTA, MAY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0308

WILLIAM TONY WIDNER V. GEORGIA STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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.

97026

06CV43323

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 12 2006

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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 above written.*

Clerk.

Will. L. Matz

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

ATLANTA, MAY 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0309
NOTE PURCHASE COMPANY OF GEORGIA, LLC., V. BRENDA LEE
STRICKLAND REALTY, 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.

99026

05VS077161E

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 18 2006

*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.

Will. L. Mat... [Signature]

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

ATLANTA, MAY 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0310
CARYN LEE SMITH V. JEFF ANDREW SMITH

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

91026

SU05DR086P

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 17 2006**

*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.

Will L. Matz

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

ATLANTA, JUNE 13, 2006

The Court of Appeals passed the following order

Case No. A06D0310

CARYN LEE SMITH V. JEFF ANDREW SMITH

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

91-026
SU05DR086P

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 13, 2006*

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

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

ATLANTA, MAY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0311
HOUSEHOLD CREDIT SERVICES, INC V. BART L. GRAHAM

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

94026

2005CV109277

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

MAY 24 2006

*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.

Will. L. Mat... [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: June 13, 2006

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 **S06C1709**

HOUSEHOLD CREDIT SERVICES, INC. v. BART L. GRAHAM, Comr.

Clerk, Supreme Court of Georgia

Case No. A06D0311

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 14 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, MAY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0312
YKK (USA) , INC., V. KIMBERLY PATTERSON

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.

70026

05CV42545

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 12 2006**

*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.

Will. L. Martinez

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

ATLANTA, MAY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0313
JEFF NEWELL V. BRANDY LLOYD 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 Juvenile Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

95027
10806J008

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

MAY 12 2006

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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 above written.*

Clerk.

Will. L. Matz

Court of Appeals of the State of Georgia

ATLANTA, MAY 22 2006

The Court of Appeals hereby passes the following order:

A06D0314. CURTIS LEON HORNE v. THE STATE.

Curtis Leon Horne filed this application for discretionary appeal seeking review of the trial court's order denying his extraordinary motion for new trial. Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order as required by Court of Appeals Rule 31 (d). On April 27, 2006, this Court ordered Horne to supplement his application with a stamped "filed" copy of the order sought to be appealed within 10 days or the application would be dismissed. Horne's motion for an extension of the time allowed for the filing of a stamped "filed" copy was denied by this Court. No stamped "filed" order has been filed within the time allowed. Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta MAY 22 2006

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

, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 09 2006

A06D0314. CURTIS LEON HORNE v. THE STATE.

On June 5, 2006, Curtis Leon Horne, pro se, filed a motion for reconsideration of this Court's May 22, 2006 order dismissing his application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within ten days from the rendition of the judgment. Horne's motion for reconsideration is thus untimely and is ordered DISMISSED.

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

JUN 09 2006

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

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

Willie L. Mat...

, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 19 2006**

A06D0315. STEPHENS v. STEPHENS a/k/a Plaskett.

Leslie Stephens seeks an appeal from an order dismissing his complaint for modification of alimony. The Georgia Constitution states that “[u]nless otherwise provided by law, the Supreme Court shall have appellate jurisdiction of the following classes of cases: . . . (6) All divorce and alimony cases.” Const. of 1983, Art. VI, § VI, ¶ III (6). Because the ruling complained of deals solely with matters involving alimony, the application is hereby *transferred* to the Supreme Court for disposition.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 19 2006**

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

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

Willie L. Matlock, Clerk.

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

ATLANTA, MAY 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0316
DEBORAH BLANTON V. SANDY FOODS / COVENANT GROUP

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

90027

CE0600115063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 17 2006**

*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.

Willi L. Mat...

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 30 2006**

A06D0317. MARKAL DION ST. ROMAIN v. THE STATE.

Mark Dion St. Romain has filed an application for a discretionary appeal to contest the revocation of his probation as required by OCGA § 5-6-35 (a) (5). The State, however, has moved to dismiss his application because it was not filed within 30 days of the order revoking his probation as OCGA § 5-6-35 (d) requires. Review of the order that St. Romain seeks to appeal shows that it was entered on March 28, 2006, to correct errors in the order previously entered on March 13, 2006, revoking St. Romain's probation. The March 28, 2006 order specifically states, however that it was entered "NUNC PRO TUNC to March 13, 2006."

A nunc pro tunc entry is to record some action that was taken or judgment rendered previously to the making of the entry, which is to take effect as of the former date. *Pendergrass v. Duke*, 147 Ga. 10, 11 (2) (92 SE 649) (1917). Thus,

the purpose of a nunc pro tunc entry is to record some previously unrecorded action actually taken or judgment actually rendered. It may not be used to supply an order not yet made by the court. A "nunc pro tunc" entry is an entry made now of something actually previously done to have effect of former date; office being not to supply omitted action, but to supply omission in the record of action really had but omitted through inadvertence or mistake. The general rule is that nunc pro tunc entries are proper to correct clerical errors but not judicial errors.

(Citation and punctuation omitted.) *In the Interest of H. L. W.*, 244 Ga. App. 498,

498-499 (535 SE2d 834) (2000). "A clerical error involves an error or mistake made by a clerk or other judicial or ministerial officer in writing or keeping records; it does not include an error made by the court itself. To be clerical in nature it must be one which is not the result of judicial reasoning or determination." (Citation and punctuation omitted.) Id.

Because St. Romain has neither furnished a copy of the March 13, 2006 order nor asserted that the March 28, 2006 order was not a proper nunc pro tunc order, we find that the March 28, 2006 order was properly entered nunc pro tunc to the date the order was initially issued on March 13, 2006, and that, accordingly, the application to appeal was untimely filed and must be dismissed.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 30 2006

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

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

Will. L. Martin, Clerk.

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

ATLANTA, MAY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0318
GAMAL TAWFIK V. CITY OF ATLANTA

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

71027

2005CV105310

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 24 2006**

*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.

Willie L. Mat... [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: June 12, 2006

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 **S06C1704**

GAMAL TAWFIK v. CITY OF ATLANTA

Clerk, Supreme Court of Georgia

Case No. A06D0318

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 14 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, MAY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0319

CHARLES T. ALMOND'S TAXPAYERS CLINIC, INC. V. CHRIS HALPIN

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

92027

06A433537

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2006

*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.

Willi L. Martinez

Court of Appeals of the State of Georgia

ATLANTA, MAY 11 2006

The Court of Appeals hereby passes the following order:

A06D0320. TESSA ALEXANDER v. A. ATLANTA AUTOSAVE, INC.

On April 27, 2006, Tessa Alexander filed an application for discretionary appeal, seeking review of the state court's March 27, 2006 amended order granting A. Atlanta Autosave, Inc.'s motion for expenses of litigation under OCGA § 19-15-14. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of entry of the order sought to be appealed. Alexander's application was not filed until 31 days after the entry of the March 27, 2006 order. This Court lacks jurisdiction to consider an untimely application for discretionary appeal. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000). Therefore, this application is ordered DISMISSED for lack of jurisdiction.

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

MAY 11 2006

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the minutes of the Court of Appeals of Georgia.*

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



, Clerk.



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

ATLANTA, MAY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0321
KELLIE ANN LOFTY V. NICK N. GRINDLE

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

99027

2003CV2839



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

MAY 26 2006

*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.

Willie L. Mat... [Signature]



CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: June 15, 2006

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 **S06C1720**

KELLIE ANN LOFTY v. NICK N. GRINDLE

Clerk, Supreme Court of Georgia

Case No. A06D0321

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 20 2006

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 08 2006**

A06D0322. Daryl Baptiste v. Linda Hunter, Judge

On April 27, 2006, Daryl Baptiste filed this discretionary application seeking to appeal the March 27, 2006 order dismissing his civil action against Judge Linda Hunter. However, an application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Baptiste filed his application 31 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 08 2006**

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

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: May 30, 2006

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 **S06C1627**

DARYL BAPTISTE v. LINDA HUNTER, Judge

Clerk, Supreme Court of Georgia

Case No. A06D0322

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 31 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, MAY 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0323

PROFESSIONAL STANDARDS COMMISSION V. RAY PETERSON

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

94027

2005C149

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 23 2006

*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.

Willie L. Martin

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

ATLANTA, MAY 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0324

SHARON BRAWNER V. MARIETTA CITY BOARD OF EDUCATION

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

70027

05777733

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 19 2006

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

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA, **MAY 12 2006**

The Court of Appeals hereby passes the following order:

A06D0325. COREY DEWAYNE COLEY v. THE STATE.

On May 1, 2006, Corey DeWayne Coley filed this discretionary application seeking to appeal the February 3, 2006 order denying his extraordinary motion for new trial. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Coley filed his application 87 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application, therefore, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 12 2006**

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

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

Will L. Mat... [Signature]

, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 09 2006

A06D0325. COREY DEWAYNE COLEY v. THE STATE.

On June 5, 2006, Corey DeWayne Coley filed a motion for reconsideration of this Court's May 12, 2006 order dismissing his discretionary application for appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within 10 days from the rendition of the judgment. Coley's motion for reconsideration is untimely and is therefore DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 09 2006

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the minutes of the Court of Appeals of Georgia.*

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

Will. L. Matz, Clerk.

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

ATLANTA, MAY 23, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0326

GF / LEGACY DALLAS, INC., V. JUNEAU CONSTRUCTION COMPANY, LLC

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.

96028

2004CV94986

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 23 2006

*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, JUNE 02, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0327

ANTHONY SCOTT BARRETT V. SHIRLEY LOUISE PERRY

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

98028

02V02083

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 02 2006**

*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.

Willie L. Mat... [Signature]

Court of Appeals
of the State of Georgia

ATLANTA, MAY 17, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0328
ED SCHANER ET AL V. STERLING FACTORS, INC.

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

90028

96CV14363

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

MAY 17 2006

*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.

Will L. Matz

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: June 28, 2006

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 **S06C1817**

ED SCHANDER et al. v. STERLING FACTORS, INC.

Clerk, Supreme Court of Georgia

Case No. A06D0328

JUL 05 2006

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: **MAY 26 2006**

**A06D0329. OWENS CORNING v. GEORGIA DEPARTMENT OF REVENUE
ET AL.**

Upon consideration of the Respondents' Motion for Leave to File Amended Response to Petitioner's Application for Discretionary Appeal, the motion is GRANTED.

On August 1, 2000, Owens Corning filed a claim with the Georgia Department of Revenue, Sales and Use Tax Division ("Department"), seeking a refund pursuant to OCGA § 48-2-35 for sales taxes it paid on purchases of replacement parts for manufacturing machinery. Owens Corning maintains the amount it seeks as a refund represents overpayments of sales tax. The Department, however, ignored the claim and did not issue a decision on it. Accordingly, on July 14, 2004, Owens Corning filed suit against the Department in superior court, seeking judgment in the amount of the alleged overpayments.

Both sides moved for summary judgment. In a single order, the trial court granted the Department's motion and denied Owens Corning's motion. Owen's Corning then filed this application for discretionary appeal seeking review of this order.

Because the agency in this case failed to make any ruling, this case does not involve an appeal from a decision of a superior court reviewing a decision of a state or local administrative agency, or a lower court by certiorari or de novo proceedings, as contemplated by OCGA § 5-6-35 (a) (1), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order in this case is thus directly appealable and is not subject to the discretionary appeal requirements. Accord *Georgia Dept. of Revenue*

v. Sawnee Elec. Mbrshp. Corp., 265 Ga. App. 320 (593 SE2d 756) (2004), *aff'd*, *Sawnee Elec. Mbrshp. Corp. v. Ga. Dept. of Revenue*, 279 Ga. 22 (608 SE2d 611) (2005). This application is thus GRANTED pursuant to OCGA § 5-6-35 (j). Owens Corning shall have ten days from the date of this order to file its notice of appeal with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this Court.

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

MAY 26 2006

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

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

Willie L. Martinez, Clerk.

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

ATLANTA, MAY 31, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0330

OLIN RAY WOODRUFF V. OVERNIGHT TRANSPORTATION COMPANY

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

71028

2006CV111606

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

MAY 31 2006

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

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

Clerk.

Willie L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 26 2006**

A06D0331. EDWARD CANTRELL v. THE STATE.

Edward Cantrell filed this application for discretionary appeal seeking review of the trial court's order denying his motion for out-of-time appeal. Although the application includes a copy of the order sought to be appealed, it does not contain a stamped "filed" copy of the order as required by Court of Appeals Rule 31 (d). On May 5, 2006, this Court ordered Cantrell to supplement his application with a stamped "filed" copy of the order sought to be appealed within 10 days or the application would be dismissed. No stamped "filed" order has been filed within the time allowed. Therefore, this application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 26 2006

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

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

Willie L. Mat...

, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 25 2006**

A06D0332. ERNESTO PADRON v. VANESSA PADRON.

Ernesto Padron filed this application for discretionary appeal from the superior court's final judgment in the parties' divorce action. However, the Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, Sec. VI, Par. III (6). This case is therefore TRANSFERRED to the Georgia Supreme Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 25 2006**

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

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 07 2006**

**A06D0333. GOODMAN v. NATIONAL HUMAN RESOURCE COMMITTEE,
INC., d/b/a Millcreek Motor Freight, et al.**

Shelby L. Goodman seeks an appeal from an order declaring her workers' compensation appeal to be affirmed by operation of law under OCGA § 34-9-105. Respondent demonstrates that Goodman's appeal was docketed in the superior court on December 29, 2005, and that the case was neither heard nor scheduled for a hearing within the succeeding 60 days. It follows that Goodman's appeal to superior court was affirmed by operation of law on February 27, 2006. OCGA § 34-9-105 (b). The order entered by the superior court on April 10, 2006, is a non-appealable nullity that does not serve to extend the time for filing an application for appeal to this court. Because Goodman did not file her application within 30 days after her appeal in the superior court was affirmed by operation of law, her application is hereby *dismissed* for lack of jurisdiction. OCGA § 5-6-35 (d); see *Pine Timber Trucking Co. v. Teal*, 230 Ga. App. 362 (496 SE2d 270) (1998); *Truckstops of America v. Engram*, 229 Ga. App. 616 (494 SE2d 709) (1997); *MacKenzie v. Sav-A-Lot Food Store*, 226 Ga. App. 32 (485 SE2d 559) (1997); *Buschel v. Kysor/Warren*, 213 Ga. App. 91, 93 (1) (444 SE2d 105) (1994); *Miller v. Merck & Co.*, 199 Ga. App. 722 (405 SE2d 761) (1991); *Coronet Carpets v. Reynolds*, 199 Ga. App. 383 (405 SE2d 103) (1991); *Synthetic Industries v. Camp*, 196 Ga. App. 637 (396 SE2d 518) (1990).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 07 2006**

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

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

Willie L. Matz, Clerk.

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

ATLANTA, MAY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0334

ALEXANDER WOODS V. THE STATE

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

91028

05CR98

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 24 2006

*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.

Will L. Matz

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

ATLANTA, JUNE 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0335
JOHN M. BAILEY V. DEBRA 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.

94028

05CV109374

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 05 2006**

*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.

Willi L. Mat...

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

ATLANTA, JUNE 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0336

CORNELIUS FLOWERS ET AL V. DEKALB COUNTY ZONING BOARD OF APPEALS

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

70028

04CV8925

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

JUN 08 2006

*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.

Will. L. Matia

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

ATLANTA, JUNE 08, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0337
BIBB COUNTY V. WILLIAM DAVID PRICE

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

95029

06CV43442

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 08 2006

*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.

Will. L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 01 2006

A06D0338. HENRY JAMES WIMBERLY v. THE STATE.

On May 12, 2006, Henry James Wimberly filed this discretionary application seeking to appeal the March 30, 2006 order revoking his probation. An application for discretionary appeal must be filed within 30 days of the entry of the order complained of as required under OCGA § 5-6-35 (d). Because Wimberly filed his application 43 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. Therefore, Wimberly's application is ordered DISMISSED for lack of jurisdiction. *Styles v. State*, 245 Ga. App. 90, 91 (537 SE2d 377) (2000).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 01 2006

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

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

Willie L. Matiza, Clerk.

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

ATLANTA, JUNE 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0339
ERMAN COOK, JR. V. PREHISTORIC PONDS

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

98029

2004009681

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 05 2006

*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.

Will. L. Martinez

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

ATLANTA, MAY 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0340
DENNIS LEE COLLINS V. THE STATE

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

90029

2005CR0470SW

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 30 2006

*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.

Will L. Matz

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

ATLANTA, JUNE 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0341

MICHAEL WALBURN V. THE STATE

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

93029

05CR306

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 09 2006**

*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.

Willie L. Matz

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

ATLANTA, JUNE 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0342
SHERMAN ACQUISITION II LLP V. THERESA MYRICK

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.

71029
2005CV100413

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 06 2006

*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, JUNE 27, 2006

The Court of Appeals passed the following order

Case No. A06D0343

DRAN T. MARKS V. CITIBANK SOUTH DAKOTA, N.A.

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

92-029
05A400194

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 27, 2006*

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

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

Clerk.

Willi L. Matz

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 17, 2006

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 **S06C1919**

DRAN T. MARKS v. CITIBANK SOUTH DAKOTA, N.A.

Clerk, Supreme Court of Georgia

Case No. A06D0343

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 31 2006

Clerk, Court of Appeals of Georgia



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

ATLANTA, JUNE 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0344
GINA WILLIAMS V. PHILLIP CORBETT VESSELL

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

97029

05B490F



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 09 2006

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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 above written.*

Clerk.

Willi L. Martin



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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 27 2006**

A06D0345. Shaka M. Shedeke, P. C. v. Money Service Center

On June 21, 2006, Shaka M. Shedeke, P.C., filed a motion for reconsideration of this Court's June 9, 2006 order dismissing its discretionary application for appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be physically filed with the Clerk of Court within 10 days from the rendition of the judgment. Shaka M. Shedeke, P.C.'s motion for reconsideration is untimely and is therefore DISMISSED.

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

JUN 27 2006

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

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

Willie L. Matia

, Clerk.

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

ATLANTA, JUNE 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0346
TAJ JARALLAH V. THE STATE ET AL

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

91029

2005SC042458

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 13 2006

*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.

Will. L. Mat... [Signature]

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 03, 2006

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 **S06C1847**

TAJ JARALLAH v. STATE OF GEORGIA et al.

Clerk, Supreme Court of Georgia

Case No. A06D0346

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 07 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0347

KAREN O. HARRIS V. MICHAEL L. THURMOND, COMMISSIONER OF THE
GEORGIA DEPARTMENT OF LABOR

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

94029

05A081267

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 19 2006**

*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.

Will. L. Matz

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

ATLANTA, JUNE 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0348

JOHN A. JOHNSON V. WHEELER CORRECTIONAL FACILITY ET AL

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

70029

06CV020

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 13 2006

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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 above written.*

Clerk.

Will L. Matz

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

ATLANTA, JUNE 09, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0349

REEBAA CONSTRUCTION COMPANY, INC. V. THE BANK OF AMERICA

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

95030

05C16600S5

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 09 2006

*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.

Willi L. Mat... [Signature]

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

ATLANTA, JUNE 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0350

ALBERT CRUTCHFIELD V. THE GEORGIA DEPARTMENT OF HUMAN
RESOURCES, EX REL., SAMUEL RASBERRY

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

96030

SU99DM33315

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 14 2006

*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.

Will. L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 19 2006**

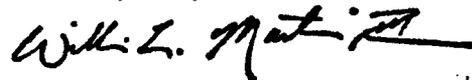
A06D0351. BREMAN BOWDON INVESTMENTS, et al. v. THOMAS.

Breman Bowdon Investments Company and Covenant Management, Inc., seek an appeal from an order entered on May 2, 2006, affirming a decision of the State Board of Workers' Compensation. Respondent Sharon Ann Thomas argues, however, that applicants' appeal to superior court was previously affirmed by operation of law, rendering applicants' submission untimely. We agree. OCGA § 34-9-105 (b) provides in part that "if the court does not hear the case within 60 days of the date of docketing in the superior court, the decision of the board shall be considered affirmed by operation of law unless a hearing originally scheduled to be heard within the 60 days has been continued to a date certain *by order of the court.*" (Emphasis supplied.) Although Thomas states that she acceded to applicants' request for a continuance, she informs us that applicants failed to secure an order effecting a continuance within 60 days of February 16, 2006, the date the appeal was docketed in the superior court. Since applicants' submission does not reflect that the superior court conducted a hearing, continued the hearing by written order, or otherwise disposed of applicants' appeal within 60 days of docketing, it follows that the appeal was affirmed by operation of law on April 17, 2006. The above styled application for appeal was filed on May 22, 2006, more than 30 days after the final disposition in the superior court. Accordingly, the application must be and is hereby *dismissed* for lack of jurisdiction. OCGA § 5-6-35 (d); *Pine Timber Trucking Co. v. Teal*, 230 Ga. App. 362 (496 SE2d 270) (1998).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 19 2006**

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the minutes of the Court of Appeals of Georgia.

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


Clerk.



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

ATLANTA, JULY 07, 2006

The Court of Appeals passed the following order

Case No. A06D0351

BREMEN BOWDON INVESTMENTS ET AL V. SHARON ANN THOMAS

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

98-030
06V00302



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 07, 2006*

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

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

Clerk.
Willie L. Martinez



CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 27, 2006

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 **S06C1976**

BREMEN BOWDON INVESTMENTS COMPANY et al. v. SHARON ANN THOMAS

Clerk, Supreme Court of Georgia

Case No. A06D0351

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 28 2006

Clerk, Court of Appeals of Georgia

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 08 2006

A06D0352. Janett Wallace v. Noble Village at Buckhead Senior Housing, LLC

Janett Wallace seeks discretionary review of the trial court's April 24, 2006 order granting Noble Village at Buckhead's ("Noble Village") motion for attorney fees pursuant to OCGA § 9-15-14. Noble Village's OCGA § 9-15-14 motion against Wallace and her attorney, Andrew Lampros, was granted; however the order provided for a separate hearing to determine the amount of reasonable attorney fees and litigation expenses. The order accordingly reserved the issue of the amount of the fees for determination at a later time.

Generally, a party must follow the discretionary appeal procedures to appeal the award of OCGA § 9-15-14 attorneys fees. OCGA § 5-6-35 (a) (10). Because the case remains pending in the trial court, however, no final judgment has been entered, and Wallace was thus required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Wallace's failure to follow the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application. Accordingly, this application is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 08 2006

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

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

ATLANTA, JUNE 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0353

JULIA UMBACH V. ROBERT WADE UMBACH

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

93030

05CV525

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

JUN 19 2006

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

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

Clerk.

Willie L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 1 6 2006**

A06D0354. VALENCIA DE ALARCON v. OZONE INVESTMENTS, LLC.

Valencia De Alarcon filed an application for discretionary review from a judgment entered in a case in which she was not a party. Only one who is a party or who unsuccessfully sought to become a party by way of intervention can appeal from a judgment. *Robinson v. Dept. of Transp.*, 185 Ga. App. 597, 601 (364 SE2d 884) (1988). Because De Alarcon was not a party to the underlying case and apparently did not file a motion to intervene, she lacks standing to appeal. See *Coffield v. Kuperman*, 269 Ga. App. 432, 434 (604 SE2d 288) (2004). This application must therefore be DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 1 6 2006**

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

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: June 26, 2006

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 **S06C1796**

VALENCIA DE ALARCON v. OZONE INVESTMENTS, LLC

Clerk, Supreme Court of Georgia

Case No. A06D0354

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUN 29 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0355

RELIANCE STEEL & ALUMINUM CO., D/B/A PHOENIX METAL ET AL V.
EMIR CEPIC

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

92030

06A025933

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 19 2006

*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.

Will. L. Mat... [Signature]



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

ATLANTA, JUNE 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0356
BENJAMIN WILSON V. THE STATE

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

97030
05T34383



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 20 2006**

*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,

The Court of Appeals hereby passes the following order: **JUN 21 2006**

A06D0357. TAYLOR v. THE STATE.

William Eugene Taylor filed the above styled application for appeal on May 25, 2006, seeking an appeal from an order entered on April 13, 2006, denying his motion to set aside his conviction based on OCGA § 17-1-4, as well as his extraordinary motion for new trial. Because Taylor failed to file his application with this court within 30 days as required under OCGA § 5-6-35 (d), we are without jurisdiction to consider Taylor's submission. Although Taylor's application was originally received by this court on May 15, 2006, Taylor failed to include the required filing fee or pauper's affidavit with the application as required under OCGA § 5-6-4 and Court of Appeals Rule 31 (c). While we acknowledge Taylor's arguments regarding the logistical difficulties involved in filing a timely application for discretionary appeal while incarcerated, this neither explains nor excuses his failure to comply with mandated filing requirements when he originally attempted to file his application. Moreover, even if a "mailbox rule" similar to the rule established in *Massaline v. Williams*, 274 Ga. 552 (554 SE2d 720) (2001), existed in this context, such a rule could not suffice to render timely an application that does not include the required filing fee or sufficient pauper's affidavit at the time it is mailed. For the foregoing reasons, Taylor's application for appeal is *dismissed* for lack of jurisdiction. Furthermore, Taylor's motion to submit additional exhibits is hereby *denied*.

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

JUN 21 2006
I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.

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

Willie L. Matz, Clerk.

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

ATLANTA, JUNE 27, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0358

PROPERTY OWNERS FOR COMMON SENSE GROWTH, A
NEIGHBORHOOD ASSOCIATION, ET AL V. MADISON COUNTY, GEORGIA,
ET AL

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

91030

05MV338H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 27 2006

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

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334
(404) 656-3470
Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: July 14, 2006

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 **S06C1914**

PROPERTY OWNERS FOR COMMON SENSE GROWTH, A NEIGHBORHOOD ASSOCIATION, et al. v. MADISON COUNTY et al.

Clerk, Supreme Court of Georgia

Case No. A06D0358

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 22, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0359

ACE EXPEDITERS OF ALABAMA, LLC V. VERNON SHROPSHIRE 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

2005CA30433

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 22 2006**

*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.

Will. L. Matiza

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

ATLANTA, JUNE 19, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0360
WENDY BROCK V. CHESTER SMITH

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

70030
02V297

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 19 2006

*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.

Willie L. Martinez

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

ATLANTA, JULY 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0361
THE KROGER CO., ET AL V. LARRY JACKSON

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

95031

2006CV0209

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 03 2006

*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.

Will L. Martinez

CLERK'S OFFICE
SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: July 24, 2006

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 **S06C1946**

KROGER COMPANY et al. v. LARRY JACKSON

Clerk, Supreme Court of Georgia

Case No. A06D0361

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JUL 31 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 27, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0362

BART L. GRAHAM V. PALMTOP PROPERTIES, INC., D/B/A GOOD TO GO

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

2005CV109920

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 27 2006

*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.

Willie L. Mat... [Signature]

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

ATLANTA, JULY 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0363

ROBERT W. MACDONALD, JR., V. THE GEORGIA REAL ESTATE COMMISSION

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.

98031

2005CV107707

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 05 2006**

*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.

Willie L. Martin

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

ATLANTA, JUNE 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0364
FULTON COUNTY DEPARTMENT OF FAMILY & CHILDREN SERVICES ET AL
V. REBA BISHOP

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

90031

2006CV115107

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 26 2006

*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.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 15 2006

A06D0365. DANIEL R. VELEZ v. TOMMY CALVIN HARPER.

Daniel R. Velez, *pro se*, filed this application for discretionary appeal in this Court on June 9, 2006, from the trial court's May 1, 2006 order denying the filing of his civil action. An application for discretionary appeal must be filed within 30 days of the judgment appealed from. OCGA § 5-6-35 (d). Velez's application was filed 39 days after entry of the order he seeks to appeal. An applicant's failure to timely file a discretionary application deprives this Court of jurisdiction to consider the appeal. *Styles v. State*, 245 Ga. App. 90 (537 SE2d 377) (2000). This application is thus DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 15 2006

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

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

ATLANTA, JULY 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0366

RICK A. BRUNATTI ET AL V. JSH & ASSOCIATES, INC., ET AL

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

71031

04C137611

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 10 2006**

*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.

Willi L. Matia

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 03 2006**

A06D0367. ARLANDA SMITH v. MARJORIE SMITH.

Arlanda Smith's motion to amend his application for discretionary appeal is GRANTED. His application for discretionary appeal is DENIED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **JUL 03 2006**

*I certify that the above is a true extract from
the minutes of 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, JULY 12, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0368
ALVIN RODRIGUEZ V. CITY OF ATLANTA ET AL

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

97031

2006CV112124

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 12 2006

*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.

Will. L. Martinez

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

ATLANTA, JULY 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0369
CRYSTAL WILKINSON 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.

99031

CR0300626063

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUL 07 2006**

*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.

Will. L. Martinez

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

ATLANTA, JULY 05, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0370
BRIAN CHRISTOPHER FASCITELLI V. CINDY HATFIELD F/K/A
CINDY FASCITELLI

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

91031

0511017905

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUL 05 2006**

*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.

Will L. Matz

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 06 2006**

A06D0371. BRIAN BRETZING v. LT. DANNY MESSIMER ET AL.

Brian Bretzing, *pro se*, filed this application for discretionary appeal in this Court on June 16, 2006, from the trial court's May 3, 2006 order denying his motion for summary judgment and granting the defendants' motion for summary judgment. An application for discretionary appeal must be filed within 30 days of the judgment appealed from. OCGA § 5-6-35 (d). Bretzing's application was filed 44 days after entry of the order he seeks to appeal. An applicant's failure to timely file a discretionary application deprives this Court of jurisdiction to consider the appeal. *Styles v. State*, 245 Ga. App. 90 (537 SE2d 377) (2000). This application is thus DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 06 2006**

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

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

Willie L. Matz, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 17 2006**

A06D0371. BRIAN BRETZING v. LT. DANNY MESSIMER ET AL.

On August 7, 2006, Brian Bretzing filed a motion for reconsideration of this Court's July 6, 2006 order dismissing his application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be filed within ten days from the rendition of the judgment. Bretzing's motion for reconsideration is thus untimely and is DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 17 2006**

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

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

Willie L. Matz, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 12, 2006

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 **S07C0089**

BRIAN BRETZING v. DANNY MESSIMER et al.

Clerk, Supreme Court of Georgia

Case No. A06D0371

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

SEP 14 2006

Clerk, Court of Appeals of Georgia

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 29 2006**

A06D0372. RONALD DEXTER RADFORD v. THE STATE.

In 1995, Ronald Dexter Radford entered a negotiated guilty plea to murder and was sentenced to life imprisonment without the possibility of parole. He also entered guilty pleas to kidnaping, rape, aggravated sodomy, and burglary. On August 10, 2005, the trial court denied Radford's extraordinary motion to vacate or correct an illegal sentence, and subsequently denied his motion for reconsideration thereof. Radford then filed an application for discretionary review in this Court.

In *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that we transfer appeals from all murder convictions to that Court. Accordingly, this appeal is TRANSFERRED to the Supreme Court.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 29 2006**

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

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

Will. L. Mat..., Clerk.

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

ATLANTA, JULY 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0373

ROGER L. GIBBONS V. DORNITRA J. RICHARDSON

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

95032

SU06CV0517S

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 07 2006**

*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.

Will. L. Martin

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 27 2006**

A06D0374. FREDERICK M. SMITH v. THE STATE.

Frederick M. Smith was convicted by jury of trafficking in cocaine and two misdemeanor offenses. On the trafficking charge, he was sentenced as a recidivist pursuant to OCGA § 17-10-7 (a) and (c), to thirty years, ten to serve, with the balance suspended. Later, Smith filed a motion to correct, modify, set aside and/or vacate illegal and void sentence, that was partially granted and an amended sentence entered on May 22, 2006.

Seeking review of additional portions of his motion that were denied, Smith filed this timely discretionary application. However, an appeal of an order denying a motion for resentencing does not come within any of the enumerated provisions contained in the discretionary appeal statute. OCGA § 5-6-35 (a). See *Shaw v. State*, 233 Ga. App. 232 (504 SE2d 18) (1998). Further, the case below is final, and thus the

interlocutory appeal procedures are not mandated. OCGA § 5-6-34 (b). Accordingly, there being no basis in OCGA § 5-6-35 (a) for requiring an application for appeal, this application is ordered GRANTED pursuant to OCGA § 5-6-35 (j).

Fererrick M. Smith 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 JUN 27 2006

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

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 13 2006**

A06D0375. THOMAS v. FREEMAN, et al.

Shelton R. Thomas, who is homeless, filed a timely application for discretionary appeal from an order denying his claim for injunctive relief against the sheriff of Fulton County and one of his deputies. Thomas sought to enjoin the defendants from carrying out an alleged threat to arrest and charge him with a crime based on his failure to comply with sex offender registry requirements. Because we conclude that the order complained of is not subject to the discretionary appeal procedure, the application is hereby *granted* as required under OCGA § 5-6-35 (j). Thomas shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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 **JUL 13 2006**

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

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

ATLANTA, JULY 17, 2006

The Court of Appeals passed the following order

Case No. A06D0376

SHELTON R. THOMAS V. MICHAEL L. THURMOND

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

90-032
2005CV110099

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 17, 2006*

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

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

Clerk.

Will L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 19 2006

A06D0377. ISADORE JOHNSON v. THE STATE.

Isadore Johnson, *pro se*, filed this application for discretionary appeal in this Court on June 21, 2006, from the trial court's February 22, 2006, March 28, 2006, and May 11, 2006 orders denying her motions alleging a void judgment and illegal sentence. An application for discretionary appeal must be filed within 30 days of the judgment appealed from. OCGA § 5-6-35 (d). Johnson's application was filed 41 days after entry of the last order she seeks to appeal. An applicant's failure to timely file a discretionary application deprives this Court of jurisdiction to consider the appeal. *Styles v. State*, 245 Ga. App. 90 (537 SE2d 377) (2000). This application is thus DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 19 2006

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

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

Willie L. Mat... , Clerk.

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

ATLANTA, JULY 14, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0378
B & B QUICK LUBE, INC. V. G & K SERVICES, CO.

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.

71032
2003CV79325

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 2006

*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.

Will L. Martinez

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

ATLANTA, JULY 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0379
WILLIE JAMES GIBSON 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.

92032

2004CR318

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUL 11 2006**

*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.

Will. L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 13 2006

A06D0380. THOMAS COUCH v. THE STATE.

Thomas Couch, pro se, has filed a timely application for discretionary appeal seeking to appeal an order denying his "Extraordinary Motion For Correction of void and unauthorized sentence." The denial of a motion to correct a void sentence is directly appealable. *Williams v. State*, 271 Ga. 686, 688-689 (1) (523 SE2d 857) (1999). Accordingly, Couch's application is GRANTED pursuant to OCGA § 5-6-35 (j).

Couch shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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*

JUL 13 2006

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

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

Will. L. Mat... , Clerk.

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

ATLANTA, JULY 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0381
SUNDANCE PRODUCTS, INC., ET AL V. SUSAN TAMEZ

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

99032

06CV840C

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 24 2006

*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.

Willi L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 05 2006

A06D0382. Jimmy C. Harper v. City of Atlanta

This application for discretionary appeal seeks review of the superior court's decision to affirm the traffic violation convictions rendered by the Atlanta Municipal Court. The superior court affirmed the lower court's convictions in accordance with OCGA § 40-13-28 on May 23, 2006. This application was filed on June 23, 2006. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days after entry of the appealable judgment. In this case, the application was filed 31 days after entry of the superior court's order. Thus, this application is untimely and this Court lacks jurisdiction to consider it. *Crawford v. Goza*, 168 Ga. App. 565 (310 SE2d 1) (1983). Accordingly, this application is ordered DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 05 2006

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

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

Willie L. Martin, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 06 2006

A06D0383. LYNITH DAVID THOMAS v. BEAULIEU OF AMERICA.

Lynith David Thomas, *pro se*, filed this application for discretionary appeal in this Court on June 24, 2006, from the superior court's May 15, 2006 order affirming an award of the State Board of Workers' Compensation Appellate Division in favor of the employer, Beaulieu of America. An application for discretionary appeal must be filed within 30 days of the judgment appealed from. OCGA § 5-6-35 (d). Thomas' application was filed 40 days after entry of the order he seeks to appeal. An applicant's failure to timely file a discretionary application deprives this Court of jurisdiction to consider the appeal. *Styles v. State*, 245 Ga. App. 90 (537 SE2d 377) (2000). This application is thus DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 06 2006

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

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

Willie L. Martin Clerk.

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

ATLANTA, AUG 10 2006

The Court of Appeals hereby passes the following order:

A06D0383. LYNITH DAVID THOMAS v. BEAULIEU OF AMERICA.

On August 1, 2006, Lynith David Thomas filed a motion for reconsideration of this Court's July 6, 2006 order dismissing his application for discretionary appeal. Court of Appeals Rule 37 (b) requires motions for reconsideration to be filed within ten days from the rendition of the judgment. Thomas's motion for reconsideration is thus untimely and is DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 10 2006

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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

, Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: August 24, 2006

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 **S06C2170**

LYNITH THOMAS v. BEAULIEU OF AMERICA

Clerk, Supreme Court of Georgia

Case No. A06D0383

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 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0384
JAMES E. BEASLEY V. BRENDA M. DOOLITTLE

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

70032

2003D0265

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 21 2006

*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.

Willie L. Martin

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

ATLANTA, JULY 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0385
CREDIGY RECEIVABLES, INC., V. CHARLES R. BOWLES

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

95033

05CV1206

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 21 2006

*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.

Willie L. Matiza

Court of Appeals

of the State of Georgia

ATLANTA, JULY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0386

GWENDOLYN EBERHART V. SABO VENTURES, INC., D/B/A BURGER
KING ET AL

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

96033

SU06CV0806

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 2006

*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.*

Will. L. Martinez
Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 18 2006

A06D0387. McDUFFIE, Jr. v. RICHARDS-SMITH.

Plaintiff Robert McDuffie, Jr., filed an application for appeal on June 26, 2006, from an order of the superior court entered on March 6, 2006, granting the defendant's motion to dismiss the case against her based on McDuffie's failure to comply with the provisions of OCGA § 9-11-9.1, and also based on applicable statutes of limitation. McDuffie acknowledges that his application is untimely, but asserts that he did not timely receive a copy of the final order. But regardless of the reason given, this court is without jurisdiction to consider an untimely appeal or application for appeal. See generally *Atlantic-Canadian Corp. v. Hammer, Siler, George Assoc., Inc.*, 167 Ga. App. 257-258 (1) (306 SE2d 22) (1983). If McDuffie's appeal rights have been frustrated due to clerical error in the superior court, his remedy is to seek to have the order set aside and re-entered in the manner described in *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980). Because this court lacks jurisdiction to consider McDuffie's application on the merits at this time, it is hereby *dismissed* for lack of jurisdiction.

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

JUL 18 2006

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

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

Willie L. Mat..., Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 10 2006

A06D0388. EVER LEE NELSON v. THE STATE.

Ever Lee Nelson, a prison inmate proceeding pro se, filed this application for discretionary appeal from an April 24, 2006 order denying certain post-conviction, post-appeal motions. Nelson's application was docketed in this Court June 30, 2006.¹

An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Nelson filed his application 67 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, DISMISSED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 10 2006**

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the minutes of the Court of Appeals of Georgia.*

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

Will L. Matz, Clerk.

¹Nelson's original submission was not accepted for filing because he did not include a filing fee or sufficient pauper's affidavit in violation of Court of Appeals Rule 31 (c) and OCGA § 5-6-4; he did not include a stamped "filed" copy of the trial court's order to be appealed in violation of Court of Appeals Rule 31 (d); and he did not include a sufficient number of copies in violation of Court of Appeals Rule 6.

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

ATLANTA, JULY 26, 2006

The Court of Appeals passed the following order

Case No. A06D0388

EVER LEE NELSON V. THE STATE

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

90-033
2000R493

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 26, 2006*

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

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

Clerk.

Willie L. Martinez

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 06 2006

A06D0389. MATTHEW D. CUYLER v. ALLSTATE INSURANCE CO.

Matthew D. Cuyler filed this timely application for discretionary appeal seeking review of an order denying him summary judgment and granting summary judgment to Allstate Insurance Co. An order granting summary judgment is subject to direct appeal. OCGA § 9-11-56 (h); see *Culwell v. Lomas & Nettleton Company*, 242 Ga. 242, 243 (248 SE2d 641) (1978). Because it does not appear that the judgment at issue here is subject to the discretionary appeal procedure, Cuyler's application is **GRANTED** as OCGA § 5-6-35 (j) requires.

Cuyler shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed 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

JUL 06 2006

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

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

Will L. Mat... , Clerk.

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

ATLANTA, JULY 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0390
JAMES ROBERT JONES V. KRISTIN BROOKE VAN HORN

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.

71033

05CV12920

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 21 2006

*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.

Will L. Mat... [Signature]

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

ATLANTA, JULY 20, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0391
LESTER G. DALLAS V. FLYING J, INC.

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

92033

CE0600185063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 2006

*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.

Willie L. Martinez

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

ATLANTA, JULY 13, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0392
GREG POWERS V. FAYETTE COUNTY BOARD OF ELECTIONS AND VOTER
REGISTRATION ET AL

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

97033

2006V0698

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 13 2006

*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.

Will L. Mat... [Signature]

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

ATLANTA, AUGUST 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0393
DEGARRIN R. HAMM V. THE STATE

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

99033

2004CR1033I

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 03 2006**

*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.

Willie L. Martin

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

ATLANTA, AUGUST 01, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0394
TYRONE E. THOMAS JR. V. THE STATE

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

91033

03CV0770

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 01 2006

*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.

Will L. Matz

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

ATLANTA, AUGUST 17, 2006

The Court of Appeals passed the following order

Case No. A06D0394

TYRONE E. THOMAS JR. V. THE STATE

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

91-033
03CV0770

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 17, 2006*

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

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

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

Docketing Date: September 05, 2006

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 **S07C0060**

TYRONE E. THOMAS, JR. v. THE STATE

Clerk, Supreme Court of Georgia

SEP 08 2006

Case No. A06D0394

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 03, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0395
WELLSTAR HEALTH SYSTEM D/B/A KENNESTONE HOSPITAL AT
WINDY HILL V. GEORGIA DEPARTMENT OF COMMUNITY HEALTH

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

94033

051434728

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 03 2006**

*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.

W. L. Matiza

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

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 25 2006

A06D0396. DAVID E. OLES v. MARY B. PANCOTTI.

The issues raised in this application for discretionary appeal include whether the trial court erred in holding applicant in contempt for failure to abide by certain provisions of the parties' final divorce decree. Since the contempt action is ancillary to the underlying divorce action and involves issues other than custody, this application falls within the divorce and alimony jurisdiction of the Supreme Court. Accordingly, the application is hereby TRANSFERRED to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Phillips v. Brown*, 263 Ga. 50, 51 (2) (426 SE2d 866) (1993); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755, 756 (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).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 25 2006

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

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

Willie L. Martin, Clerk.

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

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 17 2006**

A06D0397. MARLA SUSAN WRIGHT v. BRUCE DAVID AILION.

Marla Susan Wright seeks an appeal from an order finding her in contempt for failing to pay child support and for failing to pay a judgment related to the parties' marital residence. A contempt proceeding based on the failure to comply with the child support and property settlement provisions of a final divorce decree is ancillary to the prior divorce action and is therefore within the general appellate jurisdiction of the Supreme Court. Ga. Const. of 1983, Art. VI, § VI, Par. III (6); *Griffin v. Griffin*, 243 Ga. 149 (253 SE2d 80) (1979); see also *Brown v. King*, 266 Ga. 890 (472 SE2d 65) (1996); *Smith v. Smith*, 254 Ga. 450, 452 (2) (330 SE2d 706) (1985); *Hines v. Hines*, 237 Ga. 755, 756 (1) (229 SE2d 744) (1976); compare *Ashburn v. Baker*, 256 Ga. 507 (350 SE2d 437) (1986) (jurisdiction in contempt action involving child custody issues, but not issues relating to divorce and alimony, is within the Court of Appeals).

The Court observes that Wright filed in the Supreme Court an earlier application challenging a contempt order entered in this case and that the Supreme Court denied the application on the merits. *Wright v. Ailion*, Discretionary Application No. S06D1694 (denied July 7, 2006). This application and the accompanying Rule 40 (b) motion for supersedeas are therefore TRANSFERRED to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 17 2006

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

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

Willie L. Matz

, Clerk.

 Court of Appeals
of the State of Georgia

ATLANTA, AUGUST 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0398
SUMMATYME CORPORATION V. JOSEPH K. ADAMS ET AL

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

96034

S99V050

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 10 2006

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the minutes of the Court of Appeals of Georgia*

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Clerk.

Will. L. Martinez

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 07 2006**

A06D0399. SALVETTI v. HOENSHELL.

Debbie Sue Salvetti filed a pro se application for discretionary appeal by certified mail on Tuesday, July 11, 2006, presumably from an order entered on June 9, 2006, denying her motion to set aside a family violence protective order. Because Salvetti's application was not filed within 30 days of an appealable order¹ as required under OCGA § 5-6-35 (d), the application is hereby *dismissed* for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 07 2006**

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

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

Will L. Mat...
....., Clerk.

¹We note that Salvetti's application was filed 30 days after entry of a prior order of this court dismissing Salvetti's Appeal No. A06A1414. Given the arrangement of Salvetti's exhibits attached to her application, this appears to be more than a mere coincidence. Salvetti is advised, however, that only those orders entered by the superior court in this case are appealable to this court. Because this application was not filed within 30 days of any order entered by the superior court, we are without jurisdiction to consider it.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 23, 2006

The Court of Appeals passed the following order

Case No. A06D0399

DEBBIE SUE SALVETTI V. TIMOTHY ALLEN HOENSHELL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

98-034
2006CV325

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 23, 2006*

*I certify that the above is a true extract from
the minutes of the 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. Matz

**Court of Appeals
of the State of Georgia**

ATLANTA, JULY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0400
LORENZO FOREHAND V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90034

SU01CR072

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 2006

*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.

Will L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order:

JUL 28 2006

A06D0401. DAVID CHARLES SUTTON v. THE STATE.

David Charles Sutton, *pro se*, filed this discretionary application from an order denying several motions, including a "Motion to Vacate Void Judgment Pursuant to OCGA § 17-9-4." Sutton has already challenged his conviction by direct appeal to this Court, and the judgment was affirmed. *Sutton v. State*, 236 Ga. App. 363 (511 SE2d 888) (1999). This Court's affirmance is res judicata. *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991). According to the trial court's order, Sutton has filed 28 post-conviction motions, all of which the trial court denied. This Court has either denied or dismissed all of Sutton's appeals from these orders. See A03A1633, A04A1703, A04D0129, A04D0290, A05A0890, A05A1721, A05A2091, A05D0404.

Sutton again raises no issue that could not have been raised in his first appeal, and he otherwise raises no issue that suggests either his conviction or his sentence is a legal nullity. The order at issue is not subject to appellate review because it is not a ruling on whether the sentence is void. *Jones v. State*, 278 Ga. 669 (604 SE2d 483) (2004); *Reynolds v. State*, 272 Ga. App. 91, 95 (3) (611 SE2d 750) (2005). The State's motion to dismiss the application is thus GRANTED, and Sutton's application is DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 28 2006

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Will L. Mat... , Clerk.

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: August 15, 2006

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 **S06C2105**

DAVID SUTTON v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A06D0401

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

AUG 17 2006

Clerk, Court of Appeals of Georgia

 **Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 11, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0402

DENISE COLBERT V. PROFESSIONAL STANDARDS COMMISSION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71034

2006CV112995

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 11 2006**

*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.

Will L. Martinez

**Court of Appeals
of the State of Georgia**

ATLANTA, JULY 26, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0403
SCOTT ALLEN COOK V. KIMBERLY BEHL HEMBREE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92034

03V01725

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 26 2006

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*Witness my signature and the seal of said court
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Clerk.

Willi L. Martinez

**Court of Appeals
of the State of Georgia**

ATLANTA, AUG 10 2006

The Court of Appeals hereby passes the following order:

**A06D0404. KENNETH SMALLEY ET AL v. SECOND TIME AROUND
MINI-FARM, INC.**

Defendants Kenneth and Kathy Smalley seek discretionary review of the trial court's June 15, 2006 order granting plaintiff Second Time Around Mini-Farm, Inc.'s motion for attorney's fees pursuant to OCGA § 9-15-14. While the superior court order grants the motion for attorney's fee and requires the Smalleys to pay a specified sum predicated on a counterclaim that defendants dismissed, the main action by plaintiff against defendants remains pending below.

Generally, a party must follow the discretionary appeal procedures to appeal the award of OCGA § 9-15-14 attorney's fees. OCGA § 5-6-35 (a) (10). Because the case remains pending in the trial court, however, no final judgment has been entered, and the Smalleys were thus required to follow the interlocutory appeal procedures. OCGA § 5-6-34 (b); *Scruggs v. Ga. Dep. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). The Smalleys' failure to follow the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application. Accordingly, this application is DISMISSED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 10 2006

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Willie L. Matia

, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 15, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0405
BEVERLY JONES V. DEKALB COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99034

2006CV37066

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 15 2006**

*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.

Willie L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0406
ROBERT L. MARTIN V. HARLEY - DAVIDSON CREDIT

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

96035

2005SV1763 2005SV1190

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 2006

*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.

Willie L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 28, 2006

The Court of Appeals passed the following order

Case No. A06D0406

ROBERT L. MARTIN V. HARLEY - DAVIDSON CREDIT

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

96-035
2005SV1763 2005SV1190

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 28, 2006*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Willi L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: September 18, 2006

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 **S07C0112**

ROBERT L. MARTIN v. HARLEY-DAVIDSON CREDIT

Clerk, Supreme Court of Georgia

Case No. A06D0406

Court of Appeals of Georgia

Notice of Petition for Certiorari

SEP 20 2006

filed in office

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 18, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0407
KIMBERLY M. CLAYTON V. BOARD OF COURT REPORTING

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91034

2005105892

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 18 2006

*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, AUGUST 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0408
IN THE INTEREST OF: Z. S. W., A CHILD (FATHER)

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

94034

0563732

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 16 2006**

*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.*

Wilk. L. Martinez
Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0409
LAKEISHA JONES V. WILLIAM KIMES

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.

70034

03CV68086

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 2006

*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.

Willi L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 21, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0410
JULIE SPIRES V. JODI SPIRES ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95035

CE0600811063

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 21 2006

*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.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 17 2006**

A06D0411. McGONIGAL v. McGONIGAL.

Patrick Sean McGonigal seeks an appeal from a final custody order entered on June 22, 2006, as well as from an oral ruling in November 2005, denying his motion to set aside the custody provisions of the parties' divorce decree, alleging fraud. McGonigal's premise appears to be that because both matters were consolidated for trial and because the order of June 22 was intended to dispose of all issues in the case, the oral ruling on the motion to set aside was rendered final by that order. We assume without deciding that the order of June 22 is indeed a final order currently ripe for appellate review under OCGA § 5-6-35. Because McGonigal seeks review of the trial court's ruling on his motion to set aside a portion the parties' divorce decree, the application is hereby *transferred* to the Supreme Court for disposition. Const. of 1983, Art. VI, § VI, Par. III (6); *Burney v. Burney*, 233 Ga. 216 (210 SE2d 727) (1974).

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 17 2006**

*I certify that the above is a true extract from
the minutes of 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.



SUPREME COURT OF GEORGIA

Case No. S06D2114

Atlanta

SEP 15 2006

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FILED IN OFFICE
SEP 15 2006
COURT CLERK
CLERK COURT OF APPEALS OF GA

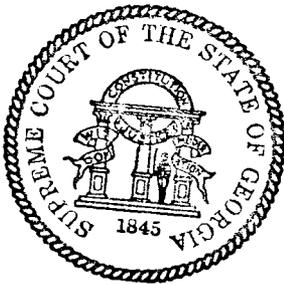
PATRICK SEAN MCGONIGAL v. DEBORAH A. MCGONIGAL

From the Superior Court of Cobb County.

The parties were divorced by order entered March 18, 2005. In May 2005, applicant filed a petition to change child custody (initiating a new civil action file). In October 2005, applicant filed a motion to set aside the custody portion of the divorce decree due to fraud, which was filed in the new case, not the divorce case. In November 2005, the trial court held two days of hearings, but did not conclude the hearing. In his application for appeal applicant states that the court consolidated the trial on the motions and heard the motion to set aside first. At the first hearing the court directed entry of an order denying the motion to set aside, but there is no written order in the record. In May 2006 the trial court concluded the hearing and on June 22, 2006, entered a "Final Custody Order" in which it stated that the matter came on for hearing on applicant's petition for change of custody. The court denied the motion, granting joint legal custody in accordance with the divorce decree, awarding physical custody to the children's mother, and providing for visitation; the court did not address child support. Applicant filed his application for discretionary appeal in the Court of Appeals, which transferred it to this Court.

The Court of Appeals "assume[d] without deciding" that the June 22 order was a final one disposing of all the issues and held that because applicant sought review of the ruling on his motion to set aside a portion of the divorce decree, then jurisdiction rests in this Court, see Burney v. Burney, 233 Ga. 216 (210 SE2d 727) (1974). But nothing in the order indicates that it is addressing the motion to set aside. The order itself specifically states it came on for hearing on

the petition to change custody, which is a post-divorce matter filed in a separate action dealing only with child custody. Appeals from orders on petitions for change of custody not also involving divorce or alimony do not fall within the jurisdiction of the Supreme Court, see Carter v. Foster, 247 Ga. 26 (273 SE2d 614) (1981). Therefore, the appeal hereby is returned to the Court of Appeals.



SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

Janette Edison Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **OCT 11 2006**

A06D0411. McGONIGAL v. McGONIGAL.

This court transferred the above styled application to the Supreme Court for disposition in light of applicant Patrick Sean McGonigal's attempt to address the merits of an oral ruling on his motion to set aside the custody provisions of the parties' divorce decree. Given that the superior court clearly intended for the written order complained of to be the final order in the case, we deemed it appropriate to defer to the Supreme Court on the issue of whether the court's oral ruling is ripe for appellate review. The Supreme Court essentially found that the motion to set aside remains pending in the superior court. Because McGonigal's change of custody petition and his motion to set aside were consolidated for trial, and because the Supreme Court has determined that the motion to set aside a portion of the parties' divorce decree remains pending, it follows that the written order complained of here is not a final judgment and is therefore not ripe for appellate review. See generally *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (1) (408 SE2d 103) (1991). Accordingly, McGonigal's application for discretionary appeal is hereby *dismissed* without prejudice to McGonigal's right to file a new application for appeal upon entry of final judgment. McGonigal's motion to stay the consideration of his application is *denied*.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **OCT 11 2006**

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Willie L. Mat...

....., Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 10, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0412

LARRY D. GARRETT V. MCDONALD CONSTRUCTION CO. INC.

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

90035

06CV283

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 10 2006

*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.

W. L. Mat... [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0413

SAMUEL BARBER ET AL V. DEKALB COUNTY, GEORGIA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93035

04CV89251

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 16 2006

*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.

Will. L. Mat. A

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 22 2006**

**A06D0414. EFFINGHAM COUNTY BOARD OF COMMISSIONERS v.
EFFINGHAM COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY.**

The Effingham County Board of Commissioners (Board) filed a timely application for discretionary review of a final order entered in a declaratory judgment action filed by the Effingham County Industrial Development Authority. The Board's discretionary application, however, is not an appeal from a decision of a superior court reviewing a zoning decision as contemplated by OCGA § 5-6-35 (a). Nor does the judgment at issue fall within other provisions of OCGA § 5-6-35 (a). OCGA § 9-4-2 (a) affords the Board the right to a direct appeal. See *Sunstates Refrigerated Svcs. v. Griffin*, 215 Ga. App. 61, 62 (1) (449 SE2d 858) (1994). Therefore, as required by OCGA § 5-6-35 (j), the Board's application is GRANTED.

The Board shall have ten days from the date of this order to file its notice of appeal. The Clerk of the Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 22 2006**

*I certify that the above is a true extract from
the minutes of 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. Martinez, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0415

SEAN MANN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92035

06R159

06R160

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 16 2006**

*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.

Willi L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 22 2006**

A06D0416. GREGORY A. SMART v. THE STATE.

Gregory A. Smart, pro se, has filed a timely application for discretionary appeal seeking to appeal an order dismissing his motion to vacate a void sentence, and to schedule a hearing for re-sentencing. The denial of a motion to correct a void sentence is directly appealable. *Williams v. State*, 271 Ga. 686, 688-689 (1) (523 SE2d 857) (1999). Accordingly, Smart's application is GRANTED pursuant to OCGA § 5-6-35 (j).

Smart shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this Court.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 22 2006**

*I certify that the above is a true extract from
the minutes of 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. Matz Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0417

DOUGLAS BRAUN V. LISA BRAUN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

99035

0610447799

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 24 2006

*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.

Will L. Mat... [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 16, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0418
CHRIS M. YAGER V. R. STEPHEN WETHERINGTON ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91035

2005CVD2610

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 16 2006

*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.

Will. L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0419

DEBRA BOZEMAN-JONES ET AL V. BELOIN & ASSOCIATES, L.L.P.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94035

041690705

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 30 2006

*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.

Will L. Matz

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: September 19, 2006

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 **S07C0109**

DEBRA BOZEMAN-JONES et al. v. BELOIN & ASSOCIATES, L.L.P.

Clerk, Supreme Court of Georgia

Case No. A06D0419

Court of Appeals of Georgia

Notice of Petition for Certiorari

SEP 20 2006

filed in office

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 30, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0420
SPENCER SHIM MANCUSO, A MINOR BY HIS NEXT FRIEND, LORI
ANN MANCUSO V. DEPARTMENT OF COMMUNITY HEALTH

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

70035

061092833

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 30 2006

*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.

Will L. Martinez

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 28, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0421

SILVIA MILTON ET AL V. C. BRADFORD SEARS, JR., ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95036

06SV0301

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 28 2006

*I certify that the above is a true extract fromd
the minuiues 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.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 30 2006**

A06D0422. BISHOP EDDIE LONG MINISTRIES, INC., ET AL. v. DOUGLAS DILLARD ET AL.

This discretionary application arises from an ongoing dispute concerning the nature, extent, and scope of certain real property interests. Applicants reject “as wholly baseless” their opponents argument in a related appeal that OCGA § 5-6-35

(a) (1) requires a discretionary application and yet, on the basis of that assertion, file this explicitly precautionary application seeking appellate review of a post-judgment order discontinuing the superior court's requirement of monthly monitoring reports concerning the water level of a now drained lake.

In any event, the applicants bear the burden of demonstrating that the application should be granted. *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989). Here, the applicants have failed to satisfy this burden since they have rejected and failed to support the assertion underlying their application, that is, that the order

sought to be appealed “could be construed as a review of a zoning permit or administrative agency decision and falling within the ambit of [OCGA § 5-6-35 (a) (1)].” Nor, is it the task of this Court to search the records of related appeals in an attempt to discover a proper jurisdictional basis for this application.

Furthermore, since applicants show that they have also filed a timely notice of appeal, there is no possibility that an appeal should be allowed pursuant to OCGA § 5-6-35 (j). Therefore, this application is ordered DISMISSED for lack of jurisdiction.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 30 2006**

I certify that the above is a true extract from the minutes of 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. Matz, Clerk.

**Court of Appeals
of the State of Georgia**

ATLANTA, SEPTEMBER 07, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0423
HEATHER KAY TRAUTH V. JEFFREY FREDRICK TRAUTH

Upon consideration of the Application for Discretionary
Appeal, it is ordered that it be hereby DENIED.

98036

2005V81735N

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 07 2006**

*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.

Will. L. Mat... [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, SEPTEMBER 22, 2006

The Court of Appeals passed the following order

Case No. A06D0423

HEATHER KAY TRAUTH V. JEFFREY FREDRICK TRAUTH

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.

98-036
2005V81735N

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta SEP 22, 2006*

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.

Willie L. Martin

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Docketing Date: October 11, 2006

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 **S07C0234**

HEATHER KAY TRAUTH v. JEFFREY FREDERICK TRAUTH

Clerk, Supreme Court of Georgia

Case No. A06D0423

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

OCT 11 2006

Clerk, Court of Appeals of Georgia

**Court of Appeals
of the State of Georgia**

ATLANTA, AUGUST 24, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0424
CHRISTIAN PHILLIPS V. LORAN LOGAN

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90036

2006CV114612

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 24 2006**

*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.

Willie L. Mat... [Signature]

**Court of Appeals
of the State of Georgia**

ATLANTA, SEPTEMBER 06, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0425
ANDREW LOITEN V. CAROLYN LOITEN

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.

93036

2006PO023978

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 06 2006

*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.

Will L. Martin

**Court of Appeals
of the State of Georgia**

ATLANTA,

SEPTEMBER 01, 2006

The Court of Appeals hereby passes the following order:

APPLICATION NO. A06D0426

JANETT WALLACE V. NOBLE VILLAGE AT BUCKHEAD SENIOR
HOUSING, LLC.

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.

71036

05VS077752H

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

SEP 01 2006

*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.

Will L. Mat...

**Court of Appeals
of the State of Georgia**

ATLANTA,

The Court of Appeals hereby passes the following order:

AUG 25 2006

A06D0427. THURSTON WALLER v. THE STATE.

On August 10, 2006, Thurston Waller filed this application for discretionary appeal, seeking to appeal the December 13, 2005 order revoking his probation. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Waller filed his application 240 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. The application is, therefore, **DISMISSED**.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

AUG 25 2006

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Willie L. Mat... A, Clerk.