

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUN 12 2008**

**A08D0401. IN THE INTEREST OF R. L. S. AND R. R. F., children (mother).**

The mother of R. L. S. and R. R. F. seeks to appeal the termination of her parental rights. The juvenile court entered the order terminating the mother's parental rights on April 25, 2008. Forty days later, on June 4, 2008, the mother filed her application to appeal the order.<sup>1</sup> Because the mother failed to file her application within 30 days of the order she seeks to appeal, as OCGA § 5-6-35 (d) requires, this Court is without jurisdiction to consider the application on the merits. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Accordingly, this untimely application for appeal is **DISMISSED** for lack of jurisdiction.

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 12 2008**

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

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



*Willie L. Matz*, Clerk.

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<sup>1</sup> The mother's original submission was not accepted for filing because she included only a single copy of the application in violation of Court of Appeals Rule 6, which requires an original and two copies.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JUL 02 2008**

**A08D0402. JVM REALTY CORPORATION, et al. v. PROVEN PERFORMANCE, INC.**

The applicants in the above styled case have filed a "Motion to Withdraw and/or Temporarily Suspend Application for Discretionary Appeal and for Remand of the Case to the Trial Court for Adjudication as Stated in Trial Court's June 6, 2008 Order." The motion to withdraw the application is hereby *granted*. In all other respects the motion is *denied*.

LC#  
2007CV144591



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

**JUL 02 2008**  
*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

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

*Willie L. Martin*, Clerk.

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

ATLANTA, JULY 01, 2008

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

APPLICATION NO. A08D0403

IN THE INTEREST OF : J. J. AND J. J. , CHILDREN ( MOTHER )

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

71034

02807J1388



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 01 2008**

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

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

*Clerk.*

*Will L. Mat... [Signature]*

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

ATLANTA, JULY 03, 2008

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

APPLICATION NO. A08D0404  
SCOTT C. LINDSEY V. GEORGIA DEPARTMENT OF CORRECTIONS/  
STATE OF GEORGIA

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

92034

08SUCV123



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

**JUL 03 2008**

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

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

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:** July 11, 2008

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 **S08C1793**

SCOTT C. LINDSEY v. GEORGIA DEPARTMENT OF CORRECTIONS / STATE OF GEORGIA

Clerk, Supreme Court of Georgia

Case No. A08D0404

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

*Sent to S.C.*  
JUL 14 2008

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 30, 2008

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

APPLICATION NO. A08D0405

IN THE INTEREST OF : D. R. AND S. M. T. , CHILDREN ( MOTHER )

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

99034

07J09389



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 30 2008**

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

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

*Clerk.*

*Will. L. McIntire*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* JUN 19 2008

**A08D0406. WINSTON HAYLES v. THE STATE.**

Winston Hayles filed this application April 21, 2008,<sup>1</sup> seeking an appeal from a March 11, 2008, order denying his extraordinary motion for new trial. To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Hayles's application was filed 41 days after the order he seeks to appeal. Hayles's untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.

LC#  
05CR3633



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* JUN 19 2008

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

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

*Will L. Martin*, Clerk.

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<sup>1</sup>Hayles filed his application in the Georgia Supreme Court, which transferred it here.

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

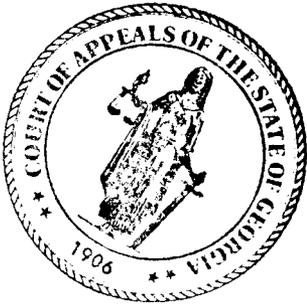
ATLANTA, JULY 02, 2008

*The Court of Appeals passed the following order*

Case No. A08D0406

WINSTON HAYLES V. THE STATE

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



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta JUL 02, 2008*

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

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

*Clerk.*

*Will. 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:** July 18, 2008

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 **S08C1872**

WINSTON HAYLES v. THE STATE

Clerk, Supreme Court of Georgia

Case No. <sup>A08D0406</sup>~~A08A0406~~

Court of Appeals of Georgia

JUL 21 2008

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, JUNE 30, 2008

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

APPLICATION NO. A08D0407

GREGORY HILLMAN V. GEORGIA DEPARTMENT OF HUMAN RESOURCES,  
EX REL. KIMBERLY C. HILLMAN

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

91034

01CV2239



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 30 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

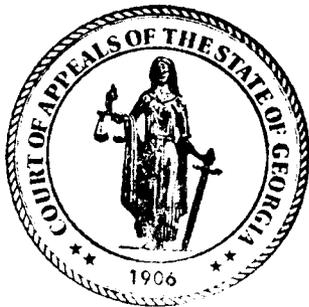
ATLANTA, JULY 09, 2008

*The Court of Appeals passed the following order*

Case No. A08D0407

GREGORY HILLMAN V. GEORGIA DEPARTMENT OF HUMAN RESOURCES,  
EX REL. KIMBERLY C. HILLMAN

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



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta JUL 09, 2008*

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

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

*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:** July 25, 2008

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 **S08C1913**

GREGORY HILLMAN v. GEORGIA DEPARTMENT OF HUMAN RESOURCES,  
EX REL. KIMBERLY C. HILLMAN

Clerk, Supreme Court of Georgia

Case No. A08D0407

**JUL 25 2008**

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia



**SUPREME COURT OF GEORGIA**

Case No. S08D1456

**DRAFT**

Atlanta

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**GARY L. HOLLINGSWORTH v. THE STATE**

From the Superior Court of Gordon County.

Applicant appeals the denial of his motion to clarify sentence and motion for reconsideration of that order. But because applicant was convicted of burglary, DUI, reckless driving and related offenses, but not murder, there is no basis for jurisdiction over this appeal in the Supreme Court and it hereby is transferred 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.

, Chief Deputy Clerk

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUN 25 2008

## A08D0408. HOLLINGSWORTH v. THE STATE.

Gary L. Hollingsworth filed an application for discretionary appeal with the Supreme Court on May 9, 2008, from an order entered on March 17, 2008, dismissing his "Motion to Clarify Sentence," as well as from an order entered April 11, 2008, denying his motion for reconsideration of the court's order of March 17. Hollingsworth's application was transferred to this court for disposition. As to the order denying Hollingsworth's motion to clarify sentence, we assume without deciding that the subject matter of that order is appealable. Nevertheless, Hollingsworth's application is clearly untimely relative to that order. The subsequent order denying Hollingsworth's motion for reconsideration is not appealable in its own right, nor does such a motion serve to extend the time for filing an application for appeal. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Because Hollingsworth did not file his submission within 30 days of an appealable order, his application for appeal is hereby *dismissed* for lack of jurisdiction. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC#  
10710



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

JUN 25 2008

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

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

*Willie L. Martin*, Clerk.

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

ATLANTA, JULY 01, 2008

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

APPLICATION NO. A08D0409  
AMY LYNN COURT V. TIMOTHY EDWARD BOGGS

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.

97035

2007CV133456



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 01 2008**

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

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

*Clerk.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 06 2008**

**A08D0410. HENRY CHRISPEN INGRAHAM v. THE STATE.**

On July 22, 2008, Henry Chrispen Ingraham filed a document with this Court which is in substance a motion for reconsideration of this Court's June 30, 2008 order dismissing his application for discretionary appeal on the basis that it was untimely. 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. Ingraham's motion for reconsideration was filed twenty-two days after this Court entered the order of dismissal. The motion is thus untimely. This Court accordingly is without jurisdiction to rule on Ingraham's motion for reconsideration, which is **DISMISSED**.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 06 2008**

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

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

*Willie L. Martin*, Clerk.



**SUPREME COURT OF GEORGIA**

Case No. S08D1435

**FILED IN OFFICE**

JUN 13 2008

CLERK, COURT OF APPEALS OF GEORGIA

Atlanta May 30, 2008

The Honorable Supreme Court met pursuant to adjournment.

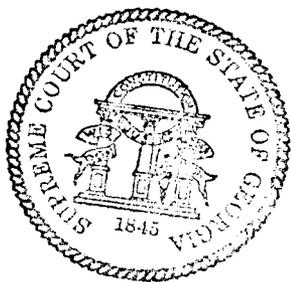
The following order was passed:

**ANTONIO M. CURRY v. ANGELA M. CURRY**

From the Superior Court of Cobb County.

Appellant filed a petition alleging that appellee was in contempt of the provisions of the parties' divorce decree related to visitation and also seeking modification of visitation. The trial court entered an order on March 13, 2008, dismissing the petition for contempt and modification with prejudice, concluding that the petitions "lack any legally sufficient basis" and awarding appellee attorney fees and lost wages. Appellant filed his application to appeal on May 6, 2008 and seeks to invoke this Court's subject matter jurisdiction over divorce cases. However, this Court lacks subject matter jurisdiction over contempt actions involving solely child custody issues, Ashburn v. Baker, 256 Ga. 507 (350 SE2d 437) (1986), and similarly, the award of fees, which appears to have been made under OCGA § 9-15-14 (a), does not invoke this Court's jurisdiction. Therefore, the Court hereby orders that the application be transferred to the Court of Appeals.

RECEIVED  
08 JUN 13 AM 11:23



**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 Tidson*, Deputy Clerk

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

ATLANTA, JUNE 26, 2008

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

APPLICATION NO. A08D0412  
DON AKRIDGE V. ANTONIO R. SILVA

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.

90035

04GR018845



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUN 26 2008

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

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

*Clerk.*

*Willie L. Martinez*

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

ATLANTA, JUNE 26, 2008

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

APPLICATION NO. A08D0413  
BRANDON PICKLE V. MERCHANTS AND CITIZENS BANK,  
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.

95035  
05CV485

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* JUN 26 2008

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

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

*Clerk.*

*Willie L. Martin, Jr.*

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

ATLANTA, JULY 10, 2008

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

APPLICATION NO. A08D0414

RODNEY SHEPARD V. THE STATE

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

93035

SU06CR1125



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 10 2008**

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

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

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA, July 7, 2008

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

## **A08D0415. WILLIE DAVIS v. KIM DENISE WILLIAMS**

Willie Davis filed this application for discretionary appeal seeking review of the trial court's order dismissing and denying his petition in a domestic relations case. The order Davis seeks to appeal was entered in the trial court on January 29, 2008. This application was not filed until June 12, 2008. By statute, applications for discretionary appeal must be filed within 30 days of entry of the order complained of; therefore, Davis' application is untimely. OCGA § 5-6-35 (d). This Court lacks jurisdiction to consider an untimely application for discretionary appeal. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). Accordingly, this appeal is ordered DISMISSED.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 07 2008

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

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

*Willie L. Martinez*

, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, July 11, 2008

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

## **A08D0416. ISHAQ H. MAJEED v. EMORY UNIVERSITY.**

Ishaq H. Majeed seeks discretionary review of an order of the superior court entered May 16, 2008. Records of this Court indicate that in March 1990, Majeed sued Emory University after he was dismissed from medical school. On October 11, 1991, the superior court granted summary judgment to Emory University on all claims. On January 27, 1992, the superior court sanctioned Majeed and assessed attorney fees of \$7,264.23 against him under OCGA § 9-15-14. Majeed filed a notice of appeal that was dismissed by the superior court on June 10, 1992, on the basis that Majeed was responsible for an unreasonable delay in pursuing his appeal rights. Majeed filed a motion for reconsideration of the dismissal of his appeal and that motion was denied on September 18, 1992. Thereafter, Majeed filed an extraordinary motion to vacate summary judgment on June 10, 1996; an amendment to the extraordinary motion to vacate summary judgment on June 13, 1998; and a second amendment to the extraordinary motion to vacate summary judgment on December 18, 2000. These motions essentially sought reconsideration of the superior court's prior final order granting summary judgment to Emory University.

On October 22, 2004, the superior court denied Majeed's motion to vacate the summary judgment order entered more than 13 years earlier on October 11, 1991. Majeed then filed a notice of appeal to this Court on November 22, 2004. This Court dismissed the appeal on September 8, 2006, on the basis that, although Majeed was purporting to appeal the October 22, 2004 order, he was in fact attempting to appeal the October 11, 1991 order granting summary judgment to Emory University and other earlier orders. In the order of dismissal, this Court also imposed a \$1,000 penalty against Majeed in accordance with Court of Appeals Rule 15 (b).

Majeed next filed a motion in the superior court on September 21, 2007, to set aside the October 22, 2004 order. The superior court denied that motion on November 29, 2007. On December 31, 2007, Majeed filed another motion for new trial and a motion to set aside the November 29, 2007 order. The trial court denied these motions on April 14, 2007.

On April 3, 2008, the superior court entered a Bill of Peace under OCGA § 23-3-110 requiring Majeed to obtain judicial approval before filing anything else in any Georgia court. On April 14, 2008, the trial court granted Majeed's request to appeal this order, but Majeed did not do so. Instead, Majeed requested permission to file another motion for new trial and – apparently anticipating the trial court's denial of that motion on May 16, 2008 – permission to file a notice of appeal, which the trial court granted. On June 16, 2008, Majeed filed this application for discretionary appeal to this Court.

A motion for new trial is an improper vehicle for challenging the grant of summary judgment, and the denial of the motion does not extend the time for filing an appeal. *Pillow v. Seymour*, 255 Ga. 683, 684 (341 SE2d 447) (1986). The trial court thus properly rejected Majeed's latest attempt to challenge the October 11, 1991 order granting summary judgment. Moreover, all possible and proper avenues to challenge the final order of summary judgment both in the trial court and this Court were long ago exhausted. This Court thus does not have jurisdiction to consider any challenge by Majeed in this case. This application is accordingly **DISMISSED**.

This Court also finds that Majeed has abused the judicial process by filing frivolous documents in this Court having no substantial basis in law. Majeed is thus **ORDERED** to cease filing any further documents relating to this case in this Court, including motions, pleadings, or applications. Any attempt by Majeed to file documents in this Court or attempt to contact this Court's personnel with respect to Superior Court of Fulton County Civil Action File No. D75892 will be treated as disobedience of this order punishable as contempt of this Court pursuant to Court of Appeals Rule 7, which provides that failure to comply with an order of this Court

subjects the offending party to contempt, for which the Court may impose a fine not to exceed \$2,500.00.

**It is SO ORDERED.**



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*     **JUL 11 2008**

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

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

*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:** July 31, 2008

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 **S08C1957**

ISHAQ H. MAJEED v. EMORY UNIVERSITY

Clerk, Supreme Court of Georgia

Case No. A08D0416

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

AUG 04 2008

Clerk, Court of Appeals of Georgia

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

ATLANTA, JULY 01, 2008

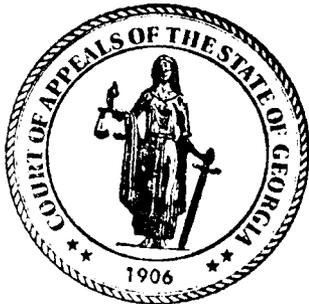
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0418  
IN THE INTEREST OF : S. L. M. , A CHILD (FATHER)

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

70035

0800023



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 01 2008**

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

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

*Clerk.*

*Will L. Martinez*

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

ATLANTA, JULY 07, 2008

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

APPLICATION NO. A08D0419

IN THE INTEREST OF : D. L. T. C. AND S. F. L. C. , CHILDREN ( FATHER )

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

91035

08DP248

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

JUL 07 2008



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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, JULY 10, 2008

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

APPLICATION NO. A08D0417  
CRISTELLA MOSQUESDA ET AL V. BRITT KNIGHT D/B/A DBK CONSTRUCTION  
COMPANY

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

99035

08CV031



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 10 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA, JULY 10, 2008

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

APPLICATION NO. A08D0420  
GINGER A. HARTBARGER V. THE STATE

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

94035

06CR17008



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 10 2008**

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

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

*Clerk.*

*Will L. Mat... [Signature]*

97036

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

ATLANTA, JUNE 27, 2008

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

APPLICATION NO. A08D0421  
STACEY LAMAR CROY V. THE STATE

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

97036  
99CR15003



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* JUN 27 2008

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

*Witness my signature and the seal of said court hereto affixed the day and year last above 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 02 2008

**A08D0422. KELVIN M. CAREY v. TAMMY T. HACKLEY.**

On June 18, 2008, Kelvin M. Carey, *pro se*, filed an application for discretionary appeal to this Court, seeking review of the superior court's March 31, 2008 "Final Order of Contempt." With his application, Carey also filed a "Motion for Delayed Appeal." An application for discretionary appeal, however, must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). This application is untimely, and we thus lack jurisdiction to consider it. An out-of-time discretionary appeal is not authorized by OCGA § 5-6-35 or any other code section. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). We therefore **DISMISS** this application and **DENY** the "Motion for Delayed Appeal."

LC#  
2002CV49910

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

JUL 02 2008

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

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



*Will. L. Martin*, Clerk.

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

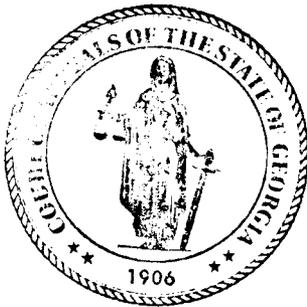
ATLANTA, JULY 16, 2008

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

APPLICATION NO. A08D0423  
JEFFREY D. MUMBY V. HEATHER DARTIS

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

98036  
07V156



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

**JUL 16 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, JULY 10, 2008

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

APPLICATION NO. A08D0424

IN THE INTEREST OF: D. L. T. C. AND S. F. L. C., CHILDREN (MOTHER)

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.

90036

08DP2481

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

JUL 10 2008

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

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

*Clerk.*



*Willie L. Martin*

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

ATLANTA, JUNE 25, 2008

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

APPLICATION NO. A08D0425  
MARK TIMOTHY HOOTEN V. THE STATE

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

95036

05CR20539



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUN 25 2008**

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

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

*Clerk.*



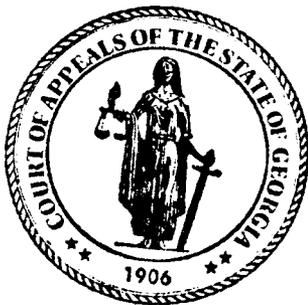
# Court of Appeals of the State of Georgia

ATLANTA, July 11, 2008

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

## **A08D0426. ERDMAN v. FISCH.**

Anthony Erdman and Jacqui Fisch were divorced by final judgment and decree entered in March 2007. The following month Erdman filed a declaratory judgment action for the purpose of clarifying the parties' rights and duties relating to the fourth paragraph of that section of the divorce decree dealing with equitable division of property to be received by Fisch. The superior court dismissed the petition for lack of a justiciable controversy, but included within its dismissal order a substantive analysis of Erdman's obligations under the paragraph in question. Erdman filed an application for appeal to this court from the dismissal order. Because a declaratory judgment action seeking to ascertain non-custodial rights and duties under the terms of a divorce decree is within the Supreme Court's appellate jurisdiction over divorce and alimony cases, Erdman's application is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6); *Schwartz v. Schwartz*, 275 Ga. 107 (561 SE2d 96) (2002); *Bryant v. Cole*, 266 Ga. 535 (468 SE2d 361) (1996); *Brown v. Brown*, 265 Ga. 725 (462 SE2d 609) (1995); *Kent v. Kent*, 265 Ga. 211 (452 SE2d 764) (1995); *Andrews v. Whitaker*, 265 Ga. 76 (453 SE2d 735) (1995); *Crosby v. Tomlinson*, 263 Ga. 522 (436 SE2d 8) (1993); *Weaver v. Jones*, 260 Ga. 493 (396 SE2d 890) (1990); *Reach v. Owens*, 260 Ga. 227 (391 SE2d 922) (1990); *Spivey v. McClellan*, 259 Ga. 181 (378 SE2d 123) (1989); *Winokur v. Winokur*, 258 Ga. 88 (365 SE2d 94) (1988); *Head v. Hook*, 248 Ga. 818 (285 SE2d 718) (1982); *Royal v. Royal*, 246 Ga. 229 (271 SE2d 144) (1980); *Bache v. Bache*, 240 Ga. 3 (239 SE2d 677) (1977).



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 11 2008

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

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

*Willie L. Martinez*

, Clerk.

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

ATLANTA, JULY 17, 2008

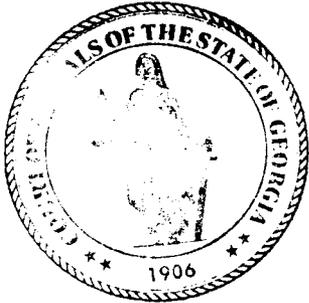
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0427  
KENYA BERRY V. ANTHONY C. JOHNSON

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

71036

06CV13189



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

**JUL 17 2008**

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

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

*Clerk.  
Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

JUL 03 2008

## **A08D0428. JENA K PAIGE v. UNITED STATES OF AMERICA.**

On March 31, 2008, Jena K. Paige, *pro se*, filed suit against the United States of America in the Liberty Superior Court, alleging that she was wrongfully discharged from the United States Air Force. The United States Attorney filed a notice of removal to the United States District Court for the Southern District of Georgia on April 8, 2008. Paige subsequently filed a "Notice of Malicious Prosecution and Motion Requesting Default Judgement" in the Liberty Superior Court, alleging that because the district court did not have jurisdiction to consider the case even though the United States had removed the action, and because the United States had failed to answer her complaint in the Liberty Superior Court case, the United States was in default in the state case and judgment should be entered against it and in her favor. The Liberty Superior Court dismissed this document without comment on June 3, 2008.

On June 20, 2008, Paige filed an application for discretionary appeal to this Court. This Court, however, does not have jurisdiction to consider this application on the merits. A federal statute, 28 U.S.C. § 1446 (d), mandates that, in a civil action, when a notice of removal is filed with the clerk of the state court, the notice shall effect removal, and the state court shall proceed no further unless and until the case is remanded. Because the statute proscribes any further action by the superior court, the superior court had no jurisdiction to consider any motions filed by Paige in the case. See *Oduok v. Phillips*, 269 Ga. App. 583, 584-585 (604 SE2d 633) (2004). Unless and until the federal court remands the case, the Liberty Superior Court is powerless to act. *Id.*

Likewise, because jurisdiction of this case lies exclusively within the federal district court, this Court does not have jurisdiction to consider this application. See *McClure v. Kelley*, 154 Ga. App. 338, 339-340 (268 SE2d 393) (1980); *Southern Bell Tel. &c. Co. v. Perry*, 168 Ga. App. 387, 388 (308 SE2d 848) (1983). Accordingly, this application is **DISMISSED** for lack of jurisdiction.

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

JUL 03 2008

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

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

*Willie L. Mat...* Clerk.



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

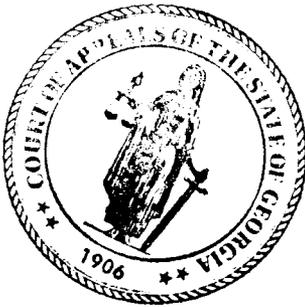
ATLANTA,

*The Court of Appeals hereby passes the following order:* JUL 30 2008

**A08D0428. JENA K. PAIGE v. UNITED STATES OF AMERICA.**

On July 3, 2008, this Court dismissed this application for discretionary appeal, and on July 9, 2008, Jena K. Paige filed a motion for reconsideration of that order. On July 11, 2008, however, Paige filed a notice of intent to petition for certiorari to the Georgia Supreme Court, depriving this Court of jurisdiction to consider the motion for reconsideration. Paige's motion for reconsideration is accordingly **DISMISSED**.

LC#  
08V440



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

JUL 30 2008

*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.*

*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:** July 11, 2008

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 **S08C1799**

JENA K. PAIGE v. UNITED STATES OF AMERICA

Clerk, Supreme Court of Georgia

Case No. A08D0428

**JUL 15 2008**

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:* **JUL 16 2008**

**A08D0429. MICHAEL G. ADAMSON v. BUILDERS FIRSTSOURCE  
-ATLANTIC GROUP, LLC**

Michael G. Adamson seeks discretionary review of a final order entered in a breach of contract, breach of suretyship/guaranty case. The order at issue was entered on April 23, 2008. Adamson filed this application on June 21, 2008. Adamson also filed a notice of appeal from that same final order on May 13, 2008. This direct appeal remains pending in this Court.

OCGA § 5-6-35 (d) requires an application for discretionary appeal to be filed “within 30 days of the entry of the order, decision, or judgment complained of.” Even assuming without deciding that this application is superfluous, Adamson’s failure to comply with the statutory filing deadline deprives this Court of jurisdiction over this application. Accordingly, this application is ordered **DISMISSED**.

LC#  
2007CV138329



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

**JUL 16 2008**

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the minutes of the Court of Appeals of Georgia.*

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

*Will L. Martin*, Clerk.

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

ATLANTA, JULY 11, 2008

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

APPLICATION NO. A08D0430

JEFFREY R. RYMER V. ANDREW FARRELL RYMER, ET AL

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

70036

2006CV125913



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 11 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JUL 17 2008**

**A08D0431. YVONNE AUSTIN v. KELVIN SCOTT.**

Yvonne Austin seeks discretionary review of a superior court order that denied her petition to modify Kelvin Scott's visitation of the parties' minor child and awarded attorney's fees to Scott. The order also reserved ruling on Scott's request for a psychological evaluation of the parties and a forensic evaluation of the child, and it granted Scott's request for the appointment of a guardian ad litem for the child. The order directed the guardian ad litem to prepare a report, after which the court would hold another hearing.

"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 County*, 217 Ga. App. 520 (457 SE2d 835) (1995). Because issues remain pending below, the judgment for which an appeal is sought is not the final judgment in the case. Austin was thus 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. See *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Austin's failure to do so deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.

LC#  
2007DR03116



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **JUL 17 2008**

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

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

*Willie L. Martin* , Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* JUL 17 2008

**A08D0431. YVONNE AUSTIN v. KELVIN SCOTT.**

Yvonne Austin seeks discretionary review of a superior court order that denied her petition to modify Kelvin Scott's visitation of the parties' minor child and awarded attorney's fees to Scott. The order also reserved ruling on Scott's request for a psychological evaluation of the parties and a forensic evaluation of the child, and it granted Scott's request for the appointment of a guardian ad litem for the child. The order directed the guardian ad litem to prepare a report, after which the court would hold another hearing.

"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 County*, 217 Ga. App. 520 (457 SE2d 835) (1995). Because issues remain pending below, the judgment for which an appeal is sought is not the final judgment in the case. Austin was thus 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. See *Scruggs v. Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). Austin's failure to do so deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.

LC#  
2007DR03116



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta JUL 17 2008

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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. Martin*, Clerk.

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

ATLANTA, JULY 28, 2008

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

APPLICATION NO. A08D0432

LAURA LEE AMSTEAD V. ROBERT P. MCFARLAND, SR., ET AL

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

94036

05CV2155



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

**JUL 28 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 28, 2008

*The Court of Appeals passed the following order*

Case No. A08D0432

LAURA LEE AMSTEAD V. ROBERT P. MCFARLAND, SR., ET AL

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



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta AUG 28, 2008*

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

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

*Clerk.*

*Willie L. Martinez*

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

ATLANTA, JULY 18, 2008

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

APPLICATION NO. A08D0433

MICHELE HIXON V. TERRI PRICE

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.

97037

07CV8327



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 18 2008**

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

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

*Clerk.*

*Will L. Martin*

*AMST*

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

ATLANTA, JULY 30, 2008

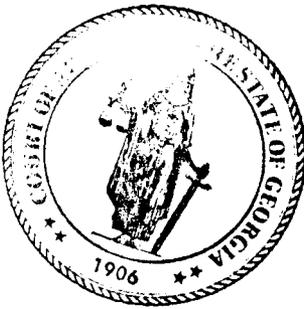
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0434  
LUCILE CASON V. EMORY UNIVERSITY HOSPITAL

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

96037

08CV1138



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

**JUL 30 2008**

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

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

*Clerk.*

*Will. 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:** August 18, 2008

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 **S08C2079**

LUCILE CASON v. EMORY UNIVERSITY HOSPITAL

Clerk, Supreme Court of Georgia

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AUG 21 PM 3:04  
Jill A. [unclear]  
CLERK OF SUPREME COURT  
CLERK OF SUPREME COURT

Case No. A08D0434

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 30, 2008

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

APPLICATION NO. A08D0435

WILLIAM M. FOSTER ET AL V. JEFFREY H. SHEFFER, ET AL

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

90037

CV050251



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

**JUL 30 2008**

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

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

*Clerk.*

*Willi 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:** August 18, 2008

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 **S08C2054**

WILLIAM M. FOSTER et al. v. JEFFREY H. SHEFFER et al.

Clerk, Supreme Court of Georgia

Case No. A08D0435

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**AUG 19 2008**

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 23 2008

## A08D0436. EMMANUEL SMITH v. KEIOME MENDEZ ET AL.

Emmanuel Smith filed this action against Keiome and Robert Mendez seeking to recover certain earnest money. The trial court entered final judgment in favor of the Mendezes, and Smith filed this application for discretionary appeal. Because Smith seeks an appeal from a final judgment in favor of the defendants and awarding Smith nothing, the case is directly appealable pursuant to OCGA § 5-6-34 (a) (1). *Robinwood, Inc. v. Baker*, 206 Ga. App. 202 (1) (425 SE2d 353) (1992).

When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j). Because this application falls under OCGA § 5-6-35 (j), it is hereby **GRANTED**. Smith shall have ten (10) days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The Clerk of the State Court of Gwinnett County is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC#  
07C18879



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

JUL 23 2008

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

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

*Willie L. McIntosh*, Clerk.

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

ATLANTA, JULY 22, 2008

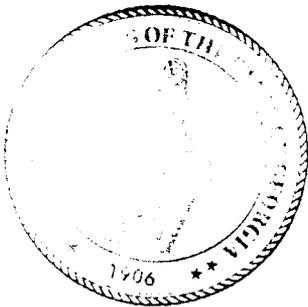
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0437  
KENNETH LYONS V. DONNA JACKSON

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

95037

07CV2424



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

**JUL 22 2008**

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

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

Clerk.

*Willie L. Martin*

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

ATLANTA, JULY 29, 2008

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

APPLICATION NO. A08D0438  
MICHELLE HAMILTON V. KARLEN OWENS

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

93037

07CV32



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 29 2008

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,            AUGUST            01, 2008

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

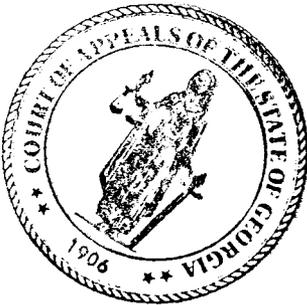
APPLICATION NO.            A08D0439

IN THE INTEREST OF: H. S., S. S., AND T. S. , CHILDREN (MOTHER)

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

71037

0750800133



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 01 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA,            AUGUST            07, 2008

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

APPLICATION NO.            A08D0440  
OTIS SPUNKMEYER, INC., V. MARK FEUSEE

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

92037

2008CV145864



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 07 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA, JULY 28, 2008

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

APPLICATION NO. A08D0441  
JESSIE DUANTE MYLES V. THE STATE

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

99037

0591224



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 28 2008**

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

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

*Clerk.*

*Will L. Mat... [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JUL 17 2008**

**A08D0442. RYAN PATRICK SNOW v. THE STATE.**

Ryan Patrick Snow filed this application for discretionary appeal July 9, 2008, seeking an appeal from a May 27, 2008, order denying his “motion to hold void judgment mere nullity and expunge.”<sup>1</sup> To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Snow’s application was filed 43 days after the order he seeks to appeal. Snow’s untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.

LC#

05SC28228, 05SC28739,

05SC28743



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

**JUL 17 2008**

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

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

*Willie L. Martin*

, Clerk.

---

<sup>1</sup>Snow’s original submission was not accepted for filing because it lacked a filing fee or sufficient pauper’s affidavit in violation of OCGA § 5-6-4 and Court of Appeals Rule 31 (d), and a stamped “filed” copy of the trial court’s order in violation of Court of Appeals Rule 31 (e).

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

ATLANTA, JULY 24, 2008

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

APPLICATION NO. A08D0443  
MYRTLEAN CANADAY V. PLASTICS SOUTH, INC., ET AL

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

91037

06CV00604



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* JUL 24 2008

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 07, 2008

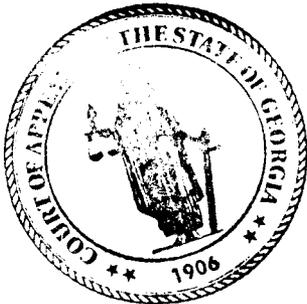
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0444  
ERION VOGLI V. DISCOVER BANK

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

94037

07A6478



*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta **AUG 07 2008**

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

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

Clerk.

*Willie L. Martinez*

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

ATLANTA, JULY 23, 2008

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

APPLICATION NO. A08D0445  
IN THE INTEREST OF: T. M. AND R. M., CHILDREN

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

97038

14708J0051



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

**JUL 23 2008**

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

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

*Clerk.*

*Willie L. Mat...*

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

ATLANTA, AUGUST 11, 2008

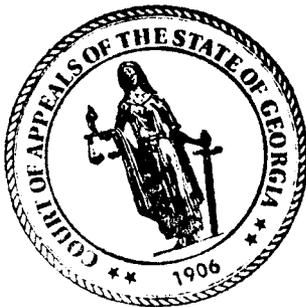
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0446  
BUCKHEAD SAFETY CAB COMPANY ET AL V.  
QUINTON MITCHELL ET AL

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

96038

05VS088873



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 11 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 08, 2008

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

APPLICATION NO. A08D0447  
IN THE INTEREST OF: A. L. S., A CHILD

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

98038

0701532



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 08 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA, JULY 30, 2008

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

APPLICATION NO. A08D0448  
IN RE: ESTATE OF MARY ELICE BOONE

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.

90038

2007CV0406



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JUL 30 2008**

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

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

*Clerk.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

JUL 23 2008

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

## **A08D0449. DAVID ARTHUR ROBERTSON v. THE STATE.**

In an order entered April 11, 2007, the trial court revoked David Arthur Robertson's probation. Robertson later filed a motion for reconsideration, which the trial court heard and orally denied on August 9, 2007. No written order denying the motion appears in the application materials. On September 12, 2007, the court entered a "Final Order" that designated the case as closed, but did not mention the motion for reconsideration. On July 11, 2008, Robertson filed this application for discretionary review of the court's denial of his motion for reconsideration.

As an initial matter, "an oral order is not final nor appealable until and unless it is reduced to writing, signed by the judge, and filed with the clerk." *Sharp v. State*, 183 Ga. App. 641, 642 (1) (360 SE2d 50) (1987). Because Robertson submits no written order denying his motion for reconsideration, his application presents nothing for review. Moreover, "the denial of a motion for reconsideration of an appealable order or judgment is not itself appealable and does not extend the time for filing a notice of appeal." *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Thus,

even if Robertson had submitted a written order denying his motion for reconsideration, that order would not be appealable in its own right. Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of entry of the appealable judgment, which in this case was the original order of revocation entered on April 11, 2007. The time requirement in OCGA § 5-6-35 (d) is jurisdictional, and because Robertson's application is untimely, it is hereby DISMISSED.

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

**JUL 23 2008**

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

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

*Will. L. Martin*, Clerk.



# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 11 2008**

**A08D0450. HAYLES v. THE STATE.**

Winston Hayles filed an application for appeal in the Supreme Court on April 14, 2008, from an order entered on March 12, 2008, denying his "Motion for Vacation of Judgment or Verdicts Obtained by Perjury" as well as his motion for the prosecution of the person alleged to have offered perjured testimony against him. The application was transferred to this court for disposition. Because the submission did not include the required filing fee or an adequate pauper's affidavit, the application was not docketed in this court until July 11, 2008, 121 days after entry of the order referenced in the application. "The clerk is prohibited from receiving the application for appeal . . . unless the costs have been paid or a sufficient affidavit of indigence is filed or contained in the record." OCGA § 5-6-4; see generally *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001). Hayles was required to file his application with this court or the Supreme Court within 30 days of the entry of the order complained of, or no later than Friday, April 11, 2008. OCGA § 5-6-35 (d). Because Hayles failed to file his application for appeal within 30 days as required, it is hereby *dismissed* for lack of jurisdiction.<sup>1</sup> *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC#  
05CR3633



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

**AUG 11 2008**

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

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

*Will. L. Martin*, Clerk.

<sup>1</sup>We note that even if this application could be treated as filed on April 14, 2008, the date it was filed in the Supreme Court, Hayles's submission would still be dismissed as untimely.

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

ATLANTA, AUGUST 28, 2008

*The Court of Appeals passed the following order*

Case No. A08D0450

WINSTON HAYLES V. THE STATE

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



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta AUG 28, 2008*

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

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

Clerk.

*Will. L. Martin*

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

ATLANTA,            AUGUST            01, 2008

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

APPLICATION NO.            A08D0451  
ROY BASHFORTH V. EVA GRAHAM, A/K/A EVA GRAHAM  
BASHFORTH

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

71038

0710237434



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 01 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 11, 2008

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

APPLICATION NO. A08D0452

NAOMI JENKINS V. PROFESSIONAL STANDARDS COMMISSION

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

92038

2006CV158



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 11 2008**

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

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

*Clerk.*

*William L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

**AUG 07 2008**

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

**A08D0453. ROBERTO BAEZ v. PHIL D. MILLER, SHERIFF, et al.**

Prison inmate Roberto Baez has filed an application for discretionary review to seek to appeal an order declining his request for pauper status in the civil action that he filed against the sheriff and others. Because Baez is a prisoner, this appeal is controlled by the Prison Litigation Reform Act of 1996 (OCGA § 42-12-1 et seq.). OCGA § 42-12-8 requires that an appeal of a civil action filed by a prisoner “shall be as provided in Code Section 5-6-35.” Under OCGA § 5-6-35, the party wishing to appeal must file a timely application to the appropriate appellate court. See *Jones v. Townsend*, 267 Ga. 489 (480 SE2d 24) (1997). Baez, however, did not file his application within 30 days of entry of the order at issue and it is untimely. Baez’s failure to timely comply with the discretionary appeal procedures deprives this Court of jurisdiction and this application is therefore ordered DISMISSED.

LC#  
08CV02354



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

**AUG 07 2008**

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

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

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**SEP 02 2008**

**A08D0453. ROBERTO BAEZ v. PHIL D. MILLER, SHERIFF et al.**

On August 7, 2008, this Court dismissed Roberto Baez's application for discretionary review due to Baez's failure to timely comply with the discretionary appeal provisions as required by the Prison Litigation Reform Act of 1996.

Baez now seeks reconsideration of that dismissal order. Baez faults the Clerk's Office for returning his original application which he claims was filed on time. Baez's argument appears correct in that the document contained in his original application was, in fact, an appealable order. Baez's application was erroneously returned to him and so it is deemed filed as of July 1, 2008, thereby making the application timely. Accordingly, Baez's motion for reconsideration is GRANTED; this Court's August 7, 2008 order dismissing his application is VACATED; and the discretionary application is REINSTATED.

Upon full consideration of the merits of the application, however, and finding none, the application is hereby DENIED.

LC#  
08CV02354



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

**SEP 02 2008**

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

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

*Will L. McIntosh*, 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 26, 2008*

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 **S09C0152**

ROBERTO BAEZ v. PHIL D. MILLER, SHERIFF et al.

Clerk, Supreme Court of Georgia

Case No. A08D0453

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:* **JUL 25 2008**

## **A08D0454. SAMMY HALLAQ v. GREENWOOD TRUST COMPANY.**

Sammy Hallaq, who is proceeding pro se, filed this discretionary application to appeal an order denying his challenge to a 1998 default judgment. Apparently, the trial court had granted Hallaq's motion to set aside the default judgment but then granted the respondent's motion for reconsideration of the set aside order.<sup>1</sup> Hallaq then filed a "motion to reconsider the court's order denying [his] motion to vacate judgment and motion for evidentiary hearing," which the trial court apparently denied. Hallaq then filed a motion "to alter, amend or vacate [the court's] May 19, 2008 order denying [his] motion to reconsider [the] court's order denying [his] motion to vacate judgment." This motion, in substance, was a motion for reconsideration in which Hallaq reargued the issue of whether he was served with process in 1998. *Bell v. Cohran*, 244 Ga. App. 510 (536 SE2d 187) (2000). The trial court denied that motion, and Hallaq filed this application.

Although an applicant may file a discretionary application to challenge the denial of a motion to set aside a default judgment, an application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). The trial court, upon the respondent's motion for reconsideration, denied Hallaq's motion to set side on April 10, 2008. Therefore, Hallaq's July 16, 2008, application is untimely as to this order.

The denials of Hallaq's motions for reconsideration are not themselves appealable. See *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Nor did

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<sup>1</sup>Hallaq has failed to include all of the motions and orders with his application. See Court of Appeals Rule 31 (c).

the motions extend the time for filing a discretionary application from the order denying the motion to set aside default. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). For these reasons, we lack jurisdiction over this discretionary application which is hereby **DISMISSED**.

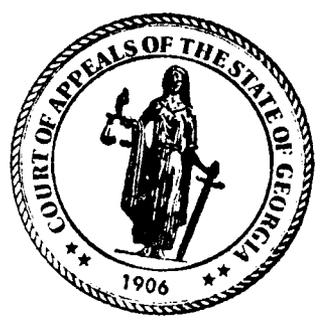
LC#  
08C02784

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* JUL 25 2008

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

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

*Will. L. Martinez*, Clerk.



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

ATLANTA, AUGUST 08, 2008

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

APPLICATION NO. A08D0455  
THE HOME DEPOT, ET AL V. JOAN PETTIGREW

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.

91038

2008V91978

*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta **AUG 08 2008**



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

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

*Clerk.*

*Willi L. Martinez*

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

ATLANTA, AUGUST 13, 2008

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

APPLICATION NO. A08D0456  
GEORGIA DEPARTMENT OF HUMAN RESOURCES ET AL V.  
WILLIE J. GAMBLE

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.

94038

2005CV110612



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 13 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: JUL 22 2008

## A08D0457. THE SPRINGS CONDOMINIUM ASSOCIATION, INC. v. CEDRIC HARRIS.

The Springs Condominium Association, Inc. (the "Association") filed this action seeking damages (including attorney fees) and judicial foreclosure of its statutory condominium lien against Cedric Harris. The trial court entered final judgment finding Harris had paid the full amount of the statutory lien and declined to grant an award of attorney fees. The Association filed this application for discretionary appeal seeking review of the trial court's failure to award it attorney fees. Because the Association seeks an appeal from a final judgment in favor of Harris, the case is directly appealable pursuant to OCGA § 5-6-34 (a) (1). *Robinwood, Inc. v. Baker*, 206 Ga. App. 202 (1) (425 SE2d 353) (1992).

When an otherwise timely application for discretionary appeal is filed in a case where a direct appeal could have been filed under OCGA § 5-6-34 (a), an appellate court has jurisdiction and shall grant the application. OCGA § 5-6-35 (j). Because this application falls under OCGA § 5-6-35 (j), it is hereby **GRANTED**. The Association shall have ten (10) days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The Clerk of the Superior Court of Gwinnett County is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC#  
08CV013476



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta JUL 22 2008

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

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

Will L. Martin, Clerk.

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

ATLANTA, AUGUST 15, 2008

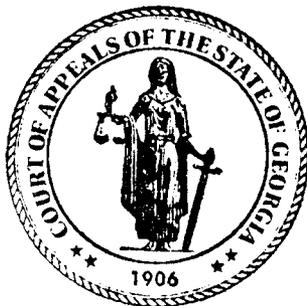
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0458  
BARBARA R. FLEMING V. COATS & CLARK, INC.

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

96039

08SUCV169



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 15 2008**

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

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

*Clerk.*

*Will L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

**AUG 14 2008**

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

**A08D0459. IN THE INTEREST OF J. B., a child.**

Sandra Gresham has filed a pro se "Petition for Remittitur of Certiorari. She appears to desire an investigation relating to persons who allegedly committed perjury at the disposition hearing and she wants an investigation into DFACS and its actions. Gresham claims that DFACS never tried to reunify her with her children and manipulated the judicial system for political gain. As this petition seeks relief that cannot be granted by this Court, it is ordered that her petition be DENIED.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 14 2008**

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

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

*Will L. Martinez*, Clerk.

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

ATLANTA, SEPTEMBER 04, 2008

*The Court of Appeals passed the following order*

Case No. A08D0459

IN THE INTEREST OF: J. B. , J. P. G. , CHILDREN (MOTHER)

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



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta SEP 04, 2008*

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

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

*Clerk.*

*Willie L. Matz*

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

ATLANTA, AUGUST 15, 2008

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

APPLICATION NO. A08D0460  
JOHN THOMPSON V. SHARON THOMPSON

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

90039

08SUCV203



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 15 2008**

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

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

*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:** August 26, 2008

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 **S08C2136**

JOHN THOMPSON v. SHARON THOMPSON

Clerk, Supreme Court of Georgia

Case No. A08D0460

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office -

AUG 28 2008

sent to S.C.

Clerk, Court of Appeals of Georgia

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

ATLANTA, AUGUST 13, 2008

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

APPLICATION NO. A08D0461

IN THE INTEREST OF: S. R. M., J. L. M. JR., AND B. L. M., CHILDREN  
(FATHER)

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

95039

0701762



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **AUG 13 2008**

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

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

*Clerk.*

*Willie L. Martinez*

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

ATLANTA, AUGUST 18, 2008

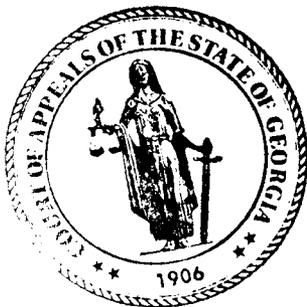
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A08D0462  
SAMUEL VIRGIL WHITT V. THE STATE

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

93039

47853



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 18 2008**

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

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

*Clerk.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

AUG 01 2008

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

**A08D0463. THE OLD BURNT FORT LIMITED PARTNERSHIP v. ELTON  
L. MIXON, SR.**

The Old Burnt Fort Limited Partnership (“Partnership”) filed this application for discretionary appeal from the trial court’s June 24, 2008 order on the Partnership’s Motion to Open Default Judgment. The order the Partnership seeks to appeal is not a final order as it provides for the parties to present their positions as to the trial court’s jurisdiction. “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 County*, 217 Ga. App. 520 (457 SE2d 835) (1995). Because the issue of the trial court’s jurisdiction remains pending, the judgment for which an appeal is sought is not the final judgment in the case. The Partnership was thus 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. *Scruggs v. Georgia Dept. of Human Resources*, 261 Ga. 587 (408 SE2d 103) (1991). The failure to do so deprives this Court of jurisdiction to consider this application, which is ordered *DISMISSED*.

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

AUG 01 2008

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

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

*Willie L. Martin*, Clerk.



# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **AUG 22 2008**

**A08D0464. IN RE: ESTATE OF ALICIA A. WATERS.**

Florence Waters filed this application for discretionary appeal, seeking review of the probate court's order denying her motion to recuse. The denial of a motion to recuse, however, 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, 295 (2) (568 SE2d 157) (2002). Waters' failure to comply with the interlocutory appeal procedures deprives this Court of jurisdiction to consider this application, which is therefore ordered **DISMISSED**.

LC#  
193722



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

**AUG 22 2008**  
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hereto affixed the day and year last above written.

*Willie L. Mat...*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

**AUG 20 2008**

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

**A08D0465. HMI PROPERTY SOLUTIONS, INC. d/b/a SOUTHERN PINES APARTMENTS v. TANIESJA NICOLE SMITH.**

On July 24, 2008, HMI Property Solutions, Inc. d/b/a Southern Pines Apartments ("HMI") filed an application for discretionary review. On August 11, 2008, HMI filed a request for permission to withdraw its application on the basis that "the parties have entered into a settlement agreement disposing of all issues in the case." HMI's request to withdraw its application is GRANTED.

LC#  
07A5502

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

**AUG 20 2008**

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*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

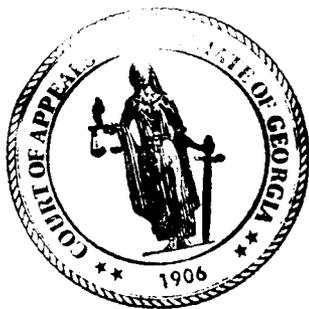
ATLANTA,

AUG 14 2008

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

**A08D0466. DAVY JONES v. JENNIFER ROSE GIBBY.**

Upon consideration of the application for discretionary appeal in this case, the application is **DENIED**. Upon consideration of the respondent's motion to dismiss the application, the motion is **DENIED** as moot.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

AUG 14 2008

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*Will L. Martinez*, Clerk.

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

ATLANTA,            AUGUST            29, 2008

*The Court of Appeals passed the following order*

Case No. A08D0466

DAVY JONES V. JENNIFER ROSE GIBBY

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

*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta    AUG 29, 2008*

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the minutes of the Court of Appeals of Georgia.*

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

Clerk.



*Will. L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 14 2008**

**A08D0467. ABDELHADI ELBOUADILI v. CLARA INEZ GRACIA.**

Abdelhadi Elbouadili filed a petition for downward modification of the child support award in his final divorce decree. The trial court denied the petition, and Elbouadili now seeks discretionary appellate review. Under the Georgia Constitution of 1983, Art. VI, Sec. VI, Par. III (6), the Supreme Court has appellate jurisdiction over “[a]ll divorce and alimony cases.” In Georgia, child support is a form of alimony. *Smith v. Smith*, 254 Ga. 450, 451 (330 SE2d 706) (1985) (the purpose of alimony is to provide *support* for the needy spouse and minor children). As the only issue in this case involves child support, this Court lacks appellate jurisdiction over this application. See, e.g., *Upchurch v. Smith*, 281 Ga. 28 (635 SE2d 710) (2006); *Falkenberry v. Taylor*, 278 Ga. 842 607 SE2d 567) (2005); *Staffon v. Staffon*, 277 Ga. 179 (587 SE2d 630) (2003); *Hulett v. Sutherland*, 276 Ga. 596 (581 SE2d 11) (2003); *Wingard v. Paris*, 270 Ga. 439 (511 SE2d 167) (1999). Accordingly, this application is TRANSFERRED to the Supreme Court of Georgia.

LC#  
08A04213

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 14 2008**

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*Willie L. Mant* Clerk.



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

ATLANTA,            AUGUST            22, 2008

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

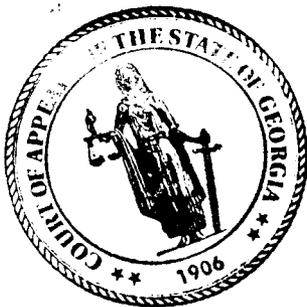
APPLICATION NO.            A08D0468

ANTHONY COOPER V. THE STATE

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

94039

02CR005



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 22 2008**

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*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 21 2008**

## **A08D0469. GERRY TYRON REDFERN v. CANDACE RENE DRIVER.**

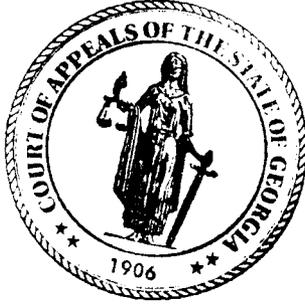
Gerry Tyron Redfern seeks discretionary review of the trial court's order denying his "Renewed Extraordinary Motion for Reconsideration, or, in the Alternative, to Set Aside Order or in the Further Alternative, Motion for a New Trial on Defendant's Motion to Enforce Offer of Judgment."

The trial court granted defendant Candace Rene Driver's motion to enforce her offer of judgment on March 29, 2007. Redfern appealed that order by application for discretionary appeal to the Georgia Supreme Court, which granted the application on May 23, 2007. See App. No. S07D1228 (May 23, 2007). Redfern, however, failed to file a timely notice of appeal. Instead, on June 8, 2007, Redfern filed the motion referenced above which was denied by the trial court on July 1, 2008. It is this order Redfern seeks to appeal by this application.

Redfern properly sought an appeal of the trial court's order granting Driver's motion to enforce her offer of judgment when he filed the discretionary application with the Supreme Court. The Supreme Court's grant of that application provided Redfern an appeal; however, Redfern failed to avail himself of his appeal rights when he did not file a timely notice of appeal. Redfern's failure to pursue his appeal rights in the Supreme Court renders the issues raised in that appeal res judicata. *Norris v. Norris*, 281 Ga. 566 (2) (642 SE2d 34) (2007); *Mitchell v. Oliver*, 254 Ga. 112 (1) (327 SE2d 216) (1985). Since Redfern seeks to appeal the same issues raised in the application to the Supreme Court, this Court lacks jurisdiction to consider this

application, and it is ordered DISMISSED.

LC#  
04CV1701



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 21 2008**

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*Willie L. Martinez*, Clerk.

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

ATLANTA, AUGUST 22, 2008

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

APPLICATION NO. A08D0470

IN THE INTEREST OF: S. N. H. , A CHILD (MOTHER)

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

96040

075460



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

**AUG 22 2008**

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Clerk.

*Will. L. Martinez*

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

ATLANTA, AUGUST 22, 2008

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

APPLICATION NO. A08D0471  
SHALONDA JOHNSON V. THE STATE

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

98040

05CR254



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 22 2008**

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

*Will. L. Martinez*

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

ATLANTA,            AUGUST        20, 2008

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

APPLICATION NO.        A08D0472  
LONLEAF ENERGY ASSOCIATES, LLC V. FRIENDS OF THE  
CHATTAHOOCHEE, 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.

90040

2008CV146398

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*        **AUG 20 2008**



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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above written.*

*Clerk.*

*Will. L. Martinez*

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

ATLANTA, AUGUST 20, 2008

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

APPLICATION NO. A08D0473  
CAROL COUCH, DIRECTOR, ENVIRONMENTAL PROTECTION  
DIVISION, ET AL V. FRIENDS OF THE CHATTAHOOCHEE, 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.

90041

2008CV146398



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 20 2008**

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*Clerk.*

*Willi L. Martin*

# Court of Appeals of the State of Georgia

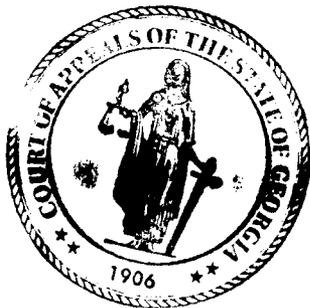
ATLANTA,

*The Court of Appeals hereby passes the following order:* **SEP 16 2008**

**A08D0474. TERRELL BROWN v. THE STATE.**

On August 26, 2008, Terrell Brown filed a motion for reconsideration of this Court's August 14, 2008 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. Brown's motion for reconsideration was filed eleven days after this Court entered the order of dismissal. The motion is thus untimely. This Court accordingly is without jurisdiction to rule on Brown's motion for reconsideration, which is **DISMISSED**.

LC#  
0791687



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **SEP 16 2008**

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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.*

*Willie L. Martin*, Clerk.

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

ATLANTA, AUGUST 28, 2008

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

APPLICATION NO. A08D0475  
JERRY METTS V. STATE ELECTION BOARD

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

93040

2007C165



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **AUG 28 2008**

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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above written.*

*Clerk.*

*Will L. Mat...*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 08 2008**

## **A08D0476. JAMES TERRY STINSON v. THE STATE.**

James Terry Stinson's conviction on one count of aggravated sodomy and four counts of sexual battery was affirmed by this court in *Stinson v. State*, 256 Ga. App. 902 (569 SE2d 858) (2002). Stinson now seeks an appeal from order of the superior court dismissing his motion to vacate. In his motion Stinson argued that the indictment was defective and that he received ineffective assistance of counsel. The trial court dismissed Stinson's pro se motion because he is currently represented by counsel and therefore cannot simultaneously represent himself. Stinson does not dispute the trial court's finding; therefore, because Stinson is represented by appellate counsel, this Court lacks jurisdiction to consider Stinson's pro se application. A criminal defendant does not have the right to represent himself and also be represented by an attorney. *Brown v. State*, 264 Ga. App. 9 (589 SE2d 830) (2003).

Moreover, we conclude that what Stinson effectively seeks here is a second appeal from his conviction, to which he is not entitled. See generally *Miller v. State*, 277 Ga. 372 (589 SE2d 108) (2003). Accordingly, Stinson's application for appeal is DISMISSED for lack of jurisdiction.

LC#  
98B02105



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 08 2008**

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Will. L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 07 2008**

**A08D0477. STEPHEN E. WHITTED v. LORI J. WHITTED.**

Stephen E. Whitted seeks a discretionary appeal from an order of the superior court entered in a contempt action brought by Lori Jones Whitted in which she alleged Stephen E. Whitted violated provisions of the parties' final divorce decree not involving custody of their children. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Stephen E. Whitted's application is therefore **TRANSFERRED** to the Supreme Court for disposition.

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

**AUG 07 2008**

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*Willie L. Mat...* Clerk.



# Court of Appeals of the State of Georgia

ATLANTA,

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

**AUG 28 2008**

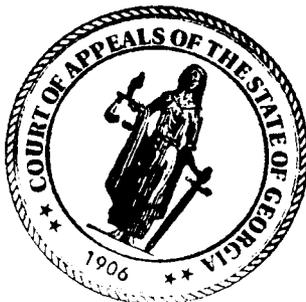
**A08D0478. PATRICK HENRY KELLY v. THE STATE.**

In May 1995, Patrick Henry Kelly was sentenced after he entered a negotiated guilty plea to two counts of aggravated child molestation. In June 2008, Kelly filed a motion to correct void sentence. On July 11, 2008, the trial court denied Kelly's motion to correct void sentence.

On July 28, 2008, Kelly filed a direct appeal (A08A2306) from the order denying his motion to correct void sentence. On August 13, 2008, this Court dismissed Kelly's direct appeal, finding there was no jurisdictional basis upon which to consider the merits of the appeal.

On July 31, 2008, Kelly filed a pro se application for discretionary review from the same order entered on July 11, 2008 that denied Kelly's motion to correct void sentence. The proper method for challenging the validity of a guilty plea and the resulting sentence, when the challenge occurs in a subsequent term of court than that in which the sentence was adjudged, is through habeas corpus proceedings. *Goodrum v. State*, 259 Ga. App. 704 (578 SE2d 484) (2003). Because Kelly failed to comply with these procedures, this application is DISMISSED for lack of jurisdiction.

LC#  
95454



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

**AUG 28 2008**

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*Willie L. Mat... Clerk.*

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

ATLANTA, AUGUST 20, 2008

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

APPLICATION NO. A08D0479

JANIE J. LUNSFORD V. EUSTACE PAUL MCCANNON

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

99040

8CV373



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 20 2008**

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*Clerk.*

*Will. L. Martin*

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

ATLANTA, AUGUST 20, 2008

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

APPLICATION NO. A08D0480

GREGORY HENIS SLAYTON V. PATRICIA TOY BRYANT JOHNSON,  
F/K/A SLAYTON

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

70040

CE0700424063



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 20 2008**

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*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 21, 2008

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

APPLICATION NO. A08D0481  
GEORGIA REAL ESTATE APPRAISERS BOARD V. ASHBY ROY  
KROUSE, III

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.

91040

2007CV141571

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*



**AUG 21 2008**

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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 14 2008**

**A08D0482. BERYL B. FARRIS v. MARC FARRIS.**

Beryl B. Farris seeks a discretionary appeal from an order of the superior court resolving motions for contempt filed by both Beryl B. Farris and Marc Farris against the other in which they both contend the other violated provisions of the parties' final divorce decree not involving custody of their children. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Accordingly, Beryl B. Farris' application is *TRANSFERRED* to the Supreme Court for disposition.

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 14 2008**

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*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **AUG 28 2008**

**A08D0483. LANE MANAGEMENT COMPANY v. FLOYD SIMS.**

On August 5, 2008, Lane Management Company filed this application for discretionary appeal, seeking review of the superior court's July 2, 2008 order denying its extraordinary motion for new trial. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Lane Management Company filed its application thirty-four days after entry of the order it seeks to appeal, the application is untimely. This Court lacks jurisdiction to consider an untimely application. Accordingly, the application is **DISMISSED.**

LC#  
2003CV77392



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **AUG 28 2008**

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*William L. Mat... Clerk.*

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

ATLANTA, AUGUST 29, 2008

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

APPLICATION NO. A08D0484

MARY ANN STRICKLAND V. CROSSMARK, 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.

98041

2008CV1180

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 29 2008**



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*Clerk.*

*Willie L. Martin*

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

ATLANTA, AUGUST 27, 2008

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

APPLICATION NO. A08D0485

JAMES BADGER 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.

95041

2005SUCR974



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 27 2008**

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*Clerk.*

*Will L. Mat... [Signature]*

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

ATLANTA, AUGUST 22, 2008

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

APPLICATION NO. A08D0486

IN THE INTEREST OF: A. A. N. , T. S. N. , C. L. N. , CHILDREN (MOTHER)

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

93041

0800825



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**AUG 22 2008**

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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: **AUG 21 2008**

## **A08D0487. SHANE ASHLEY ONDRIEZEK v. THE STATE.**

On June 30, 2008, this Court dismissed Shane A. Ondriezek's direct appeal from an order that revoked his first offender status because he violated the terms of probation. His appeal was dismissed due to his failure to comply with the discretionary appeal procedures as required by OCGA § 5-6-35 (a) (5) in probation revocation cases. After the dismissal of his direct appeal by this Court, Ondriezek sought and obtained an order from the trial court granting an "Out-of-Time Application for Discretionary Appeal."

This Court cannot consider Ondriezek's application because an out-of-time discretionary appeal is not authorized by OCGA § 5-6-35 or by any other code section. See *Dept. of Offender Rehabilitation v. Meeks*, 165 Ga. App. 269 (299 SE2d 757) (1983). This Court has held that a trial court has no authority for granting an extension of time for filing an application for discretionary appeal. *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). Because Ondriezek's application for discretionary review was not timely filed, it is ordered DISMISSED.

LC#  
SU06CR219



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 21 2008**

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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.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**SEP 04 2008**

**A08D0488. MERRIWETHER v. GERMANY-JONES.**

John Merriwether seeks an appeal from an order denying his motion to set aside an order that, among other things, found him in contempt of the child support provisions of the parties' final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Because Merriwether is seeking to set aside an order within the divorce and alimony jurisdiction of the Supreme Court, his application for appeal is hereby *transferred* to the Supreme Court for disposition. Ga. Const. of 1983, Art. VI, § VI, ¶ III (6).

LC#  
061553542



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 04 2008**

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

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

*Will. L. McIntosh*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**AUG 20 2008**

## **A08D0489. Floyd Wilson v. The State.**

Floyd Wilson seeks discretionary review of the trial court's order denying his "Motion to Re-Open Default as a Matter of Right after Entry of Order Disposing of Seized Property." To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Wilson's application was filed 31 days after the order he seeks to appeal. Wilson's untimely application for appeal is therefore *DISMISSED* for lack of jurisdiction.

LC#  
07CV1292

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

**AUG 20 2008**

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

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



*Will L. Mat... , Clerk.*

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

ATLANTA, SEPTEMBER 08, 2008

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

APPLICATION NO. A08D0490

IN THE INTEREST OF: O. X. W. , A CHILD (MOTHER)

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

70041

0800844



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 08 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

**AUG 28 2008**

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

**A08D0491. WILLIE LEE TUCKER v. THE STATE.**

On August 11, 2008, Willie Lee Tucker, who is proceeding *pro se*, filed an application for discretionary appeal in this Court, seeking review of the trial court's May 9, 2008, 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 Tucker 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, Tucker's application is **DISMISSED**.

LC#  
44887

Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **AUG 28 2008**

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

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



*Willie L. Martinez*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

SEP 04 2008

**A08D0492. MICHAEL GOOLSBY v. ALLISON A. BROWN.**

In September 2007, the superior court entered an order finding Michael Goolsby in contempt of a child support order. In July 2008, Goolsby filed a "Motion to Vacate and Reconsider Final Order," in which he essentially sought reconsideration of the September 2007 order. The superior court promptly denied the motion for reconsideration, and Goolsby now seeks discretionary review.

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within thirty days of entry of the appealable judgment. A motion for reconsideration does not serve to extend the time for filing an application for appeal. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, an order denying a motion for reconsideration is not appealable in its own right. *Bell v. Cochran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Because this application was not filed within 30 days of the September 2007 contempt order, it is untimely and this Court lacks jurisdiction to consider it. Therefore, the application is DISMISSED.

LC#  
2003DR679



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

SEP 04 2008

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

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

*Willie L. Matiza*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 23 2008**

**A08D0492. MICHAEL R. GOOLSBY v. ALLISON A. BROWN.**

On October 6, 2008, Michael Goolsby filed a motion for reconsideration of this Court's September 4, 2008 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. Goolsby's motion for reconsideration was filed 32 days after this Court entered the order of dismissal. The motion is thus untimely. This Court accordingly is without jurisdiction to rule on Goolsby's motion for reconsideration, which is DISMISSED.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **OCT 23 2008**

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

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

*Will. L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 02 2008**

**A08D0493. WILLIS v. THE STATE.**

Elijah Willis filed an application for discretionary appeal from an order denying his "Motion to Vacate Judgment." In substance Willis's application is from the denial of a motion to vacate a sentence he contends is void due to an improper application of OCGA § 17-10-7 (c). See generally *McConnell v. State*, 281 Ga. App. 303, 303-304 (635 SE2d 882) (2006). Because the discretionary appeal procedure does not apply to the type of order complained of here, Willis's application is hereby *granted*. OCGA § 5-6-35 (j).

Willis shall have ten days from the date of this order to file a notice of appeal in the superior court. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this court.

LC#  
2005CR295



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **SEP 02 2008**

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

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

*Willie L. Martinez*, Clerk.

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A08D0494

BERNARD J. FREEMAN V. BYRON HILL, D/B/A NOMAD

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

96042

OOVS010027



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA, SEPTEMBER 11, 2008

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

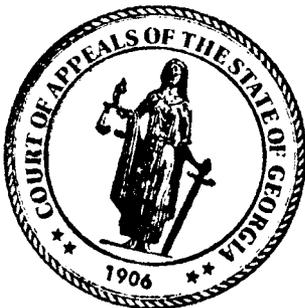
APPLICATION NO. A08D0495

IN THE INTEREST OF: K. S. , AND L. S. , CHILDREN (PARENTS)

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

98042

11508755



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 11 2008**

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

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

*Clerk.*

*Willie L. Martin*