

Court of Appeals of the State of Georgia

ATLANTA, July 20, 2009

The Court of Appeals hereby passes the following order:

A09D0446. HIGHT v. THE STATE.

In 1974, a jury found Alfred Hight guilty of kidnapping, rape, and aggravated sodomy. Hight filed an extraordinary motion for new trial, which the trial court denied on April 30, 2009. On June 30, 2009, this Court received Hight's application for discretionary appeal.¹ We, however, lack jurisdiction.

A discretionary application must be filed within 30 days of entry of the order sought to be appealed.² Here, Hight filed his application 61 days after the order denying his extraordinary motion for new trial was entered. Thus, Hight's application was untimely, and this Court lacks jurisdiction to consider an untimely application.³ Accordingly, this application for discretionary appeal is hereby DISMISSED for lack of jurisdiction.

¹ Hight labeled his motion an "amendment to his original notice of appeal." Hight apparently filed his original appeal in the Supreme Court. Applications that are improperly filed in the Supreme Court are generally transferred to this Court for disposition. At this time, however, we have not received a transferred application from Hight.

² See OCGA § 5-6-35 (d).

³ See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 383) (1992).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 2009

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

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

Willi L. Martin , Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S10C0038

Atlanta, February 01, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ALFRED J. HIGHT v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Lower Court Case No.

16244

Court of Appeals Case No.

A09D0446

RECEIVED IN OFFICE
MAR - 3 PM 1:00
OFFICE OF THE CLERK
OF THE SUPREME COURT

MAR - 3 2010

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 26, 2010

I herby 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.

Pamela M. Smith, Deputy Clerk



SUPREME COURT OF GEORGIA
Case No. S10C0038

Atlanta, February 01, 2010

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

ALFRED J. HIGHT v. THE STATE

**The Supreme Court today denied the petition for certiorari in this case.
All the Justices concur.**

Court of Appeals Case No. A09D0446

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from
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.

Theresa A. Bama, Clerk

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

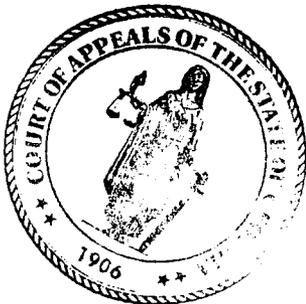
ATLANTA, AUGUST 07, 2009

The Court of Appeals passed the following order

Case No. A09D0446

ALFRED J. HIGHT 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 07, 2009*

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C2079

Atlanta, January 12, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHNNY ALLEN MARTIN v. STATE of GEORGIA

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0484

RECEIVED
CLERK'S OFFICE
FEB 12 2010

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 05, 2010

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.



Theresa R., Clerk.

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

ATLANTA, AUGUST 18, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0484
JOHNNY ALLEN MARTIN V. STATE OF GEORGIA

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

90041

09CV03331



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 18 2009

*I certify that the above is a true extract from
the minutes of the 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 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0435
JERRY BLAIR ET AL V. JERRY L. BISHOP ET AL

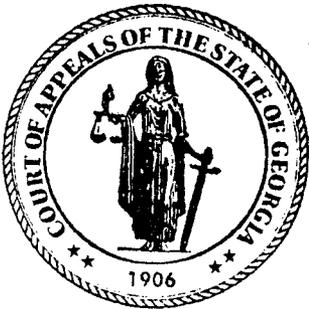
Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96037

2002V0341

SEAL OF THE COURT OF APPEALS OF THE STATE OF GEORGIA

ATLANTA, GEORGIA



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 20 2009**

*I certify that the above is a true extract from
the minutes of the 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, 2009

The Court of Appeals passed the following order

Case No. A09D0435

JERRY BLAIR ET AL V. JERRY L. BISHOP ET AL

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



RECORDED IN CLERK'S OFFICE
Court of Appeals of the State of Georgia
Clerk's Office, Atlanta AUG 07, 2009

RECORDED IN CLERK'S OFFICE
I certify that ~~the above~~ is a true extract from
the minutes of the 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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1972

Atlanta, January 12, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JERRY BLAIR et al. v. JERRY L. BISHOP et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

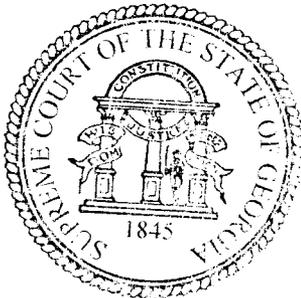
Bill of Costs, \$300.00
Court of Appeals Case No. A09D0435

RECEIVED IN OFFICE
2010 FEB -9 AM 1:03
CLERK OF SUPREME COURT
STATE OF GEORGIA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 05, 2010

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.



[Handwritten Signature], Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1833

Atlanta, January 11, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

FRANK MAJOR v. MAJOR FORD et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Lower Court Case No.

NONE

Court of Appeals Case No.

A09D0426

RECEIVED IN OFFICE
2010 MAR 16 PM 1:04
CLERK/CLERK ASSISTANT
COURT OF APPEALS OF GA.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 04, 2010

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.

Pamela M. Smith, Deputy Clerk

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C2082

Atlanta, January 12, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ROBERTO BAEZ et al. v. BAMBI JOHNSON et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Lower Court Case No.

08CV42757

Court of Appeals Case No.

A09D0423

RECEIVED IN OFFICE
2010 MAR 16 PM 1:04
CLERK'S OFFICE
SUPREME COURT OF GEORGIA
ATLANTA, GEORGIA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 04, 2010

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.

Pamela M. Smith, Deputy Clerk

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

ATLANTA, AUGUST 07, 2009

The Court of Appeals passed the following order

Case No. A09D0423

ROBERTO BAEZ ET AL V. BAMBI JOHNSON 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 07, 2009*

*I certify that the above is a true extract from
the minutes of the 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 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0423

ROBERTO BAEZ ET AL V. BAMBI JOHNSON ET AL

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

96036

08CV42757



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 2009

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

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

Clerk.

Willie L. Martinez

Court of Appeals of the State of Georgia

ATLANTA, April 23, 2009

The Court of Appeals hereby passes the following order:

A09D0323. BLITCH v. THE STATE.

Edwin Blitch filed an application for discretionary appeal from the order of the trial court denying his motion to set aside a forfeiture. The trial court entered its order on December 31, 2008, but Blitch did not properly file his application until April 13, 2008.¹ An application for discretionary appeal must be filed within thirty days of the date of entry of the order on appeal.² Failure to file within this time frame deprives this Court of jurisdiction to consider the application.³ Here, Blitch's application was not filed until 103 days after the entry of the order on appeal. Accordingly, the application is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 23 2009

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

¹ Blitch attempted to file his application before this date, but it was returned to him for failing to comply with Court of Appeals Rule 6 and OCGA § 5-6-35 (d), which require that a copy of the application be served on the opposing party and that the application contain a certificate of service.

² See OCGA § 5-6-35 (d).

³ See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1665

Atlanta, November 9, 2009

The Honorable Supreme Court met pursuant to adjournment.

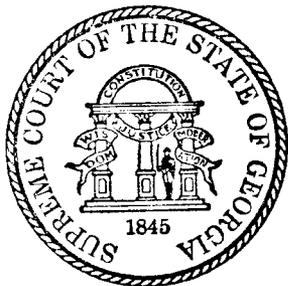
The following order was passed:

EDWIN R. BLITCH v. THE STATE

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

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0323

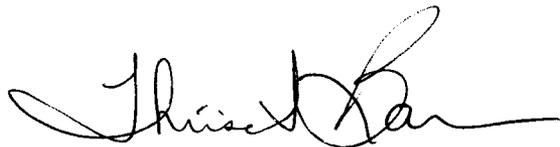


SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta December 10, 2009

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.

 , Clerk.

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

ATLANTA, MARCH 10, 2009

The Court of Appeals passed the following order

Case No. A09D0236

COACHMEN RV CO. OF GEORGIA AND FARA V. TINA C.
STINCHCOMB

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 MAR 10, 2009*

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

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

Clerk.

Willie L. Mat... [Signature]

Court of Appeals of the State of Georgia

ATLANTA,

APR 01 2009

The Court of Appeals hereby passes the following order:

**A09D0273. SOUTHERN INSURANCE COMPANY OF VIRGINIA v. JOHN
W. OXENDINE.**

The application for discretionary appeal and motion for stay filed by Southern Insurance Company of Virginia are both hereby DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 01 2009

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

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

Willie L. Martin, Clerk.

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

ATLANTA, FEBRUARY 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0236
COACHMEN RV CO. OF GEORGIA AND FARA V. TINA C.
STINCHCOMB

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

94020

08CV460



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

FEB 20 2009

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

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

Clerk.

Willi L. Martin

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1128

Atlanta, June 1, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

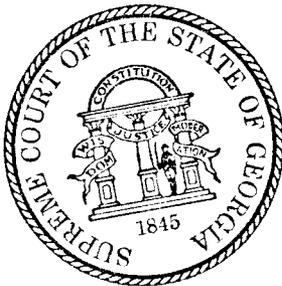
COACHMEN RV COMPANY OF GEORGIA et al. v. TINA C. STINCHCOMB

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0236

RECEIVED IN OFFICE
2009 JUN 24 PM 4:01
COURT CLERK'S OFFICE
SUPREME COURT OF GEORGIA
ATLANTA, GEORGIA



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 22, 2009

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 Lidson, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1307

Atlanta, June 1, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SOUTHERN INSURANCE COMPANY of VIRGINIA v.
JOHN W. OXENDINE, COMR.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

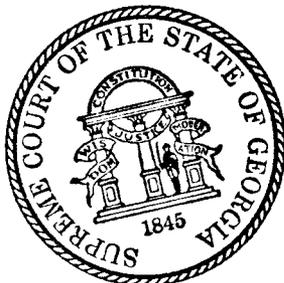
Bill of Costs, \$80.00
Court of Appeals Case No. A09D0273

RECEIVED IN OFFICE
2009 JUN 24 PM 1:01
Clerk's Office
Clerk of the Supreme Court
State of Georgia

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta June 22, 2009

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.



Leannette Eason, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0615

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

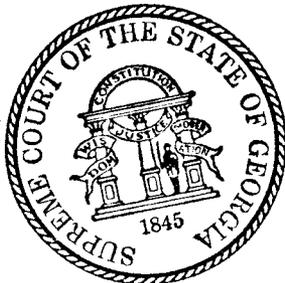
JAMIE SHEFFIELD v. WAL-MART STORES, INC., et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur, except Sears, C.J., and Hunstein, P.J., who dissent.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0103

MAY 07 2009



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 06, 2009

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 Lidson Dwyer, Clerk.

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

ATLANTA, NOVEMBER 25, 2008

The Court of Appeals passed the following order

Case No. A09D0107

COSTCO WHOLESALE ET AL V. JEFFREY RAMSDELL

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 NOV 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.

A handwritten signature in black ink, appearing to read "Wilk. L. Martinez". The signature is written in a cursive style with a long horizontal stroke at the end.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0577

Atlanta, February 23, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MARION McGAULEY v. PHIL MILLER, SHERIFF

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0155

RECEIVED IN OFFICE
09 MAR 12 AM 11:41
Clerk/Court Administrator
D. Williams



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 11, 2009

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.

Jeanette Edson, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0656

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

HUTSON PLUMBING COMPANY et al. v. GARY NOBLES

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

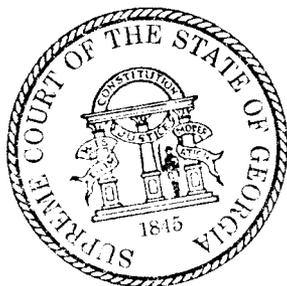
Bill of Costs, \$80.00
Court of Appeals Case No. A09D0109

MAY 07 2009

W. R. [Signature]
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS GEORGIA

09 MAY - 7 AM 11:20

RECEIVED IN OFFICE



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 06, 2009

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 Eason, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0633

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ANTHONY AARON v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0101

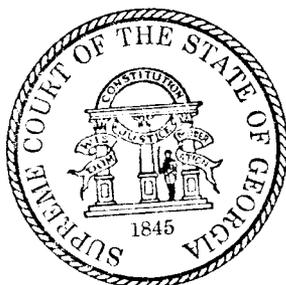
MAY 07 2009

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta May 06, 2009

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 Lidson, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0500

Atlanta, February 23, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

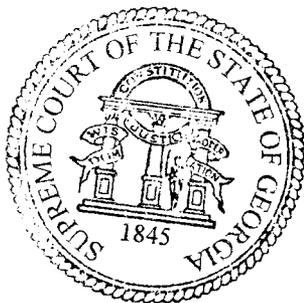
COSTCO WHOLESALE et al. v. JEFFREY RAMSDELL

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0107

RECEIVED IN OFFICE
09 MAR 12 AM 11:41
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA
William K. ...



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 11, 2009

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.

Suzanne Eiden, Deputy Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C0445

Atlanta, February 9, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

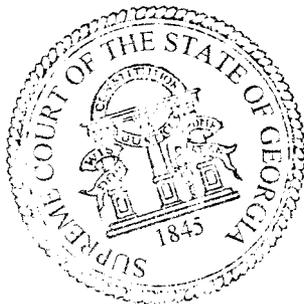
GERALD PITTS v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0077

FEB 26 2009



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 25, 2009

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 Lickon, Deputy Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 20, 2009

The Court of Appeals hereby passes the following order:

A09D0300. D'AGUILAR v. THE STATE.

On April 30, 2009, Richard D'Aguilar, Sr., filed a motion for reconsideration of this Court's order entered on April 16, 2009, denying 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 of the rendition of the judgment. Here, D'Aguilar's motion was filed 14 days after this Court entered its order. Thus, the motion is untimely, and this Court lacks jurisdiction to consider it. Accordingly, this motion for reconsideration is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 20 2009**

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

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

Will. L. Martin, Clerk.

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

ATLANTA, APRIL 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0301
JEFFREY S. HUGHES V. THE STATE

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

95026

0293744



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 13 2009

*I certify that the above is a true extract from
the minutes of the 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, April 14, 2009

The Court of Appeals hereby passes the following order:

A09D0302. FREDERICK THOMPSON v. STEVE CRONIC ET AL.

Frederick Thompson, who is proceeding pro se, filed this application for discretionary appeal seeking review of an order dismissing his complaint. A review of the limited materials Thompson has submitted with his application indicates that this case does not fall within any of the categories listed in OCGA § 5-6-35 (a) requiring an application for discretionary appeal. Because the superior court's order is directly appealable, we hereby **GRANT** Thompson's application for appeal. See OCGA § 5-6-35 (j). Thompson 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.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 14 2009**

*I certify that the above is a true extract from
the minutes of 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: **APR 02 2009**

A09D0303. IN THE INTEREST OF: D. T. M., Z. A. C., AND H. M. C., children.

On March 26, 2009, the mother filed an application for discretionary appeal from the juvenile court's order, entered on February 12, 2009, terminating her parental rights.¹ 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.² Because the mother's application was filed 42 days after the order she seeks to appeal, it was untimely. And we lack jurisdiction to consider an untimely application.³ Accordingly, this application is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **APR 02 2009**

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

LC# 05108J435

¹ The mother attempted to file the application for discretionary appeal earlier, but failed to include a copy of the order on appeal as required by Court of Appeals Rule 31 (e) and OCGA § 5-6-35 (c). Accordingly, this Court was unable to docket the application, which was returned to the mother.

² See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

³ See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).

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

ATLANTA, APRIL 07, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0304

MARIA MULLIGAN V. SELECTIVE HR SOLUTIONS, INC

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

90026

08CV49934



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 07 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S10C0055

Atlanta, January 12, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

AMERICAN STATES INSURANCE COMPANY v. CHRIS O. FORRESTER et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

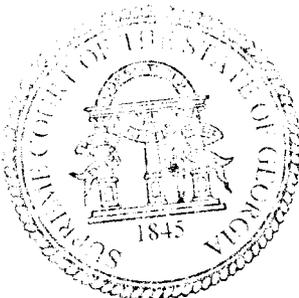
Bill of Costs, \$300.00
Court of Appeals Case No. A09I0305

RECEIVED IN OFFICE
CLERK OF THE SUPREME COURT
JAN 13 2010

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 05, 2010

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.



[Handwritten Signature], Clerk.

Court of Appeals of the State of Georgia

ATLANTA,

April 3, 2009

The Court of Appeals hereby passes the following order:

A09D0305. IN THE INTEREST OF: T.J. AND J.J., CHILDREN (FATHER).

The father of T. J. and J. J. seeks discretionary review of the juvenile court's order terminating his parental rights. In 2007, the Georgia Legislature amended OCGA § 5-6-35. Before the amendment, orders terminating parental rights were directly appealable as a matter of right. See *In the Interest of S. N. S.*, 182 Ga. App. 803 (357 SE2d 127) (1987); *In the Interest of R. L. Y.*, 180 Ga. App. 559 (349 SE2d 800) (1986). Under the revised code section, an application for discretionary appeal must be filed when appellate review is sought of an order granting a petition to terminate parental rights that was filed after January 1, 2008. See OCGA § 5-6-35 (a) (12). If the petition was filed before January 1, 2008, however, it is not subject to the amendment, and the order terminating parental rights may be directly appealed. See *In the Interest of K. R.*, ___ Ga. ___ (Case Number S08G1611, decided March 9, 2009). The petition in this case was filed on October 3, 2007, so the father has a right of direct appeal from the termination order. This application is therefore **GRANTED** under OCGA § 5-6-35 (j). The father shall have ten days from the date of this order to file his notice of appeal with the juvenile court. The clerk of the juvenile court is directed to include a copy of this order in the record transmitted to this Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 03 2009

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

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

Will L. Martin, Clerk.

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

ATLANTA, APRIL 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0306

IN THE INTEREST OF : R. T. , A CHILD (MOTHER)

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

91026

04408J07008



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 22 2009

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

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

Clerk.

Will L. Martin

Court of Appeals of the State of Georgia

ATLANTA, April 14, 2009

The Court of Appeals hereby passes the following order:

A09D0307. Murray v. The State

Wayne Murray filed an application for discretionary appeal from the denial of his “Motion to Correct Void Sentence,” in which he alleged that the trial court had imposed a criminal sentence not allowed by law. The denial of a motion to correct a void or illegal sentence is directly appealable as a matter of right. See *Williams v. State*, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999). Murray’s appeal, therefore, does not require a discretionary application.

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the lower court’s order is subject to direct appeal. Accordingly, Murray’s application is hereby GRANTED. Murray shall have 10 days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the appellate record.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 14 2009**

I certify that the above is a true extract from the minutes of 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, APRIL 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0308
DAVID ANTHONY GRIFFIN 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.

70026
05CR121



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 20 2009

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

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

Clerk.

Will. L. Martin

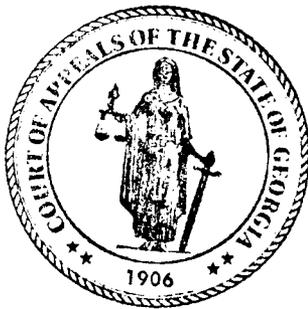
Court of Appeals of the State of Georgia

ATLANTA, April 22, 2009

The Court of Appeals hereby passes the following order:

A09D0309. DARYL MORRIS v. THE STATE.

Daryl Morris filed this application for discretionary appeal from the denial of his “extraordinary motion for new trial as to resentencing of an illegal sentence,” in which he alleged that his sentence is void because two counts merged. The denial of a motion to correct a void or illegal sentence is directly appealable as a matter of right. See *Williams v. State*, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999). Therefore, this application for discretionary appeal is **GRANTED**. OCGA § 5-6-35 (j). Morris shall have 10 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.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 22 2009

*I certify that the above is a true extract from
the minutes of 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, MAY 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0310
FIELDCREST CANNON ET AL V. AARON HUNT

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

92026

SU09CV241



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 04 2009**

*I certify that the above is a true extract from
the minutes of the 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, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0311
PEDIA-DOC CHILDREN'S MEDICAL CENTER, P.C., V. SABRINA
R. MCGHEE

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

97026

2009CV163648



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 29 2009

*I certify that the above is a true extract from
the minutes 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: May 19, 2009

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 **S09C1474**

PEDIA-DOC CHILDREN'S MEDICAL CENTER, P.C. v. SABRINA R. MCGHEE

Clerk, Supreme Court of Georgia

Case No. A09D0311

MAY 20 2009

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1474

Atlanta, October 5, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

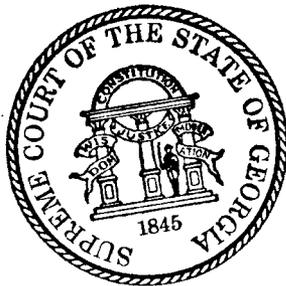
PEDIA-DOC CHILDREN'S MEDICAL CENTER, P.C. v. SABRINA R. MCGHEE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0311

RECEIVED IN OFFICE
2009 OCT 26 PM 2:02
Clerk/Court Administrator
COURT OF APPEALS OF GA.



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 23, 2009

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.

Shirley D. Bame, Clerk.

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

ATLANTA, APRIL 21, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0312
BATSON COOK COMPANY, INC., ET AL V. JEROME EVANS

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.

99026

2008CV162176



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 21 2009

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

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

Clerk.

Will L. Martin

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

ATLANTA, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

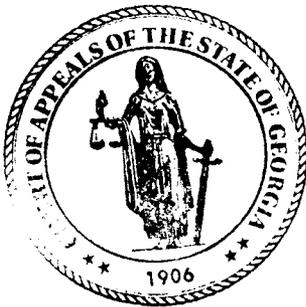
APPLICATION NO. A09D0313

JOHNNIE BURKE V. THE STATE

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

95027

CV060871



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta* **APR 29 2009**

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

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

Clerk.

Willie L. Martin

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

ATLANTA, MAY 06, 2009

The Court of Appeals hereby passes the following order:

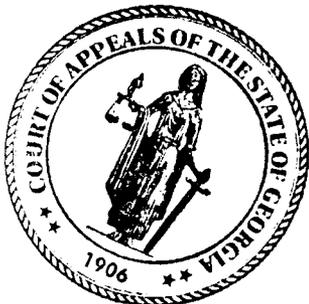
APPLICATION NO. A09D0314

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

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

96027

0801665



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 06 2009**

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

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

Clerk.

Will L. Martin

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

ATLANTA, APRIL 24, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0315

IN THE INTEREST OF: M. R. , A. R. AND D. R. , CHILDREN (FATHER)

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

98027

08676



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 24 2009

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

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

Clerk.

Will L. Martin

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

ATLANTA, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0316

ROBERT CHRISTOPHER CATES V. RHONDA JAMISON

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.

90027

08CV1049



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **APR 29 2009**

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

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

Clerk.

Will. L. Martin

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

ATLANTA, MAY 06, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0317

IN THE INTEREST OF: D. J. , A CHILD (FATHER)

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

93027

02808J1496



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 06 2009**

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

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

Clerk.

Willie L. Martinez

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

ATLANTA, MAY 06, 2009

The Court of Appeals hereby passes the following order:

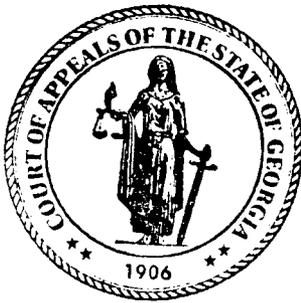
APPLICATION NO. A09D0318

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

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

96028

0801665



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 06 2009**

*I certify that the above is a true extract from
the minutes of the 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, April 22, 2009

The Court of Appeals hereby passes the following order:

A09D0319. STEWART v. THE STATE.

Broderick Stewart filed an application for discretionary appeal, seeking to appeal the trial court's dismissal of his pro se motion to reduce or modify his sentence.¹ Stewart did not include a copy of his motion before the trial court as required by Court of Appeals Rule 31 (b). It appears from his application for discretionary appeal, however, that he sought to have his sentence reduced based upon the trial court's alleged breach of a plea agreement.² It does not appear that Stewart was alleging that his sentence was void.

"A sentencing court has power to modify a valid sentence only during the term of court in which it was imposed or for up to one year (or 120 days after affirmance following appeal) under OCGA § 17-10-1 (f)."³ In recognition of this fact, the trial court properly dismissed Stewart's motion for lack of subject matter jurisdiction.⁴

¹ Stewart filed his application in the Supreme Court, which transferred the matter to the Court of Appeals.

² It is unclear from the application when Stewart entered his guilty plea, although the superior court docket number is from 1999, and it appears he has been incarcerated since at least 2004.

³ *Hall v. State*, 291 Ga. App. 649, 650 (662 SE2d 753) (2008) (For the sake of argument, we assume this Code Section, enacted in 2001, applies. As a practical matter, however, Stewart's motion was filed too late regardless of when his sentence was actually entered.).

⁴ See *Reynolds v. State*, 272 Ga. App. 91, 94 (1) (611 SE2d 750) (2005).

Under these circumstances, Stewart's application for discretionary appeal presents no appealable issue, and thus it is DISMISSED for lack of jurisdiction.



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

APR 22 2009

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

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

Will L. Martin Clerk.

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

ATLANTA, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0320
HELEN MARSHALL V. ATLANTA PUBLIC SCHOOLS

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

94027

2009CV162763



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 29 2009

*I certify that the above is a true extract from
the minutes 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, APRIL 28, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0321
JANA J. PRINE V. JAMES ANTHONY COOK

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

70027

02V1836



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 28 2009

*I certify that the above is a true extract from
the minutes of the 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, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0322

IN THE INTEREST OF: D. D. F. , A CHILD (MOTHER)

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

71027

081254



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 29 2009

*I certify that the above is a true extract from
the minutes of the 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, April 23, 2009

The Court of Appeals hereby passes the following order:

A09D0323. BLITCH v. THE STATE.

Edwin Blitch filed an application for discretionary appeal from the order of the trial court denying his motion to set aside a forfeiture. The trial court entered its order on December 31, 2008, but Blitch did not properly file his application until April 13, 2008.¹ An application for discretionary appeal must be filed within thirty days of the date of entry of the order on appeal.² Failure to file within this time frame deprives this Court of jurisdiction to consider the application.³ Here, Blitch's application was not filed until 103 days after the entry of the order on appeal. Accordingly, the application is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 23 2009

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

¹ Blitch attempted to file his application before this date, but it was returned to him for failing to comply with Court of Appeals Rule 6 and OCGA § 5-6-35 (d), which require that a copy of the application be served on the opposing party and that the application contain a certificate of service.

² See OCGA § 5-6-35 (d).

³ See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAY 29 2009**

A09D0323. BLITCH v. THE STATE.

On May 12, 2009, Edwin Blitch filed a motion for reconsideration of this Court's order entered on April 23, 2009, 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 of the rendition of the judgment. Here, Blitch's motion was filed 19 days after this Court entered its dismissal order. Thus, the motion is untimely, and this Court lacks jurisdiction to consider it. Accordingly, this motion for reconsideration is hereby **DISMISSED**.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **MAY 29 2009**

*I certify that the above is a true extract from
the minutes of 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: June 22, 2009

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 **S09C1665**

EDWIN R. BLITCH v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0323

JUN 24 2009

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Dismissed

12-01-09

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

ATLANTA, MAY 05, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0324
FORSYTH COUNTY BOARD OF EDUCATION V. TERESA A. MOORE

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

97027

09CV0190



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

MAY 05 2009

*I certify that the above is a true extract from
the minutes of the 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, MAY 28, 2009

The Court of Appeals passed the following order

Case No. A09D0324

FORSYTH COUNTY BOARD OF EDUCATION V. TERESA A. MOORE

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



*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta MAY 28, 2009*

*I certify that the above is a true extract from
the minutes of the 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, APRIL 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0325

KRISSA M. NEWSOME V. DONNA E. BAXTER 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.

99027

08CV00489



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 29 2009

*I certify that the above is a true extract from
the minutes of 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, MAY 01, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0326
RODNEY MARTIN V. PARKING COMPANY OF AMERICA ET AL

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

95028

2009CV162462



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 01 2009

*I certify that the above is a true extract from
the minutes of the 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, MAY 01, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0326

RODNEY MARTIN V. PARKING COMPANY OF AMERICA ET AL

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

95028

2009CV162462



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

MAY 01 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1486

Atlanta, June 29, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

RODNEY MARTIN v. PARKING COMPANY OF AMERICA et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

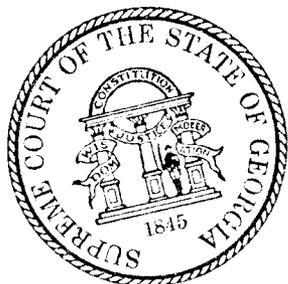
Bill of Costs, \$300.00
Court of Appeals Case No. A09D0326

RECEIVED H.C. 444
2009 JUL 15 PM 4:12

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta July 15, 2009

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.



Theresa A. Baum, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 23, 2009

The Court of Appeals hereby passes the following order:

**A09D0327. THE EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA v.
HARRIS.**

The Employees' Retirement System of Georgia has filed an application for discretionary appeal, seeking to challenge the superior court's grant of Dixie Harris' "Petition for Mandamus to Award Disability Retirement." The Supreme Court has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus.¹ This case is therefore *TRANSFERRED* to the Supreme Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 23 2009

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

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

Willie L. Matlock, Clerk.

¹ Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); see *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) (“[C]ases involving the grant or denial of mandamus are within the exclusive jurisdiction of [the Supreme] Court without regard to the underlying subject matter or the legal issues raised.”).

Bryan April 28, 2009
(meo)

RED - TAG

(D5-030) PRESIDING JUSTICE HUNSTEIN

S09D1332 EMPLOYEES' RETIREMENT SYSTEM OF GEORGIA v.
DIXIE HARRIS

Before Judge: Robert G. Johnston III, Muscogee Superior

Docket Date: April 28, 2009

Recommendation: Return to C/A

The C/A transferred the application to this Court stating that the application sought review of an order granting mandamus. However, as ERS's application makes clear, App. at 2-3, while Harris initially filed a petition for mandamus against ERS seeking disability retirement benefits, she subsequently amended her petition to change it *from* a petition for mandamus *to* a "Petition for Review of a Contained Record" App., Exh. C. The trial court's order similarly makes clear that it was ruling upon a request for "judicial review" of the decision of ERS to deny disability retirement benefits. App., Exh. B at 1. Because Harris effectively withdrew her request for mandamus relief and instead sought judicial review and there appears to be no other basis in the record for jurisdiction in this Court, I recommend that the application be returned to the C/A.

T.D VOTE	FILE
DATE _____	DATE _____
DISP _____	DISP _____
VOTE _____	VOTE _____

FILED IN OFFICE

MAY 29 2009

CLERK, COURT OF
APPEALS OF GEORGIA

John X. [Signature]
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.

2009 MAY 29 PM 1:12

RECEIVED IN OFFICE

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

ATLANTA, JUNE 23, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0327
THE EMPLOYEES' RETIRMENT SYSTEM OF GEORGIA V.
DIXIE HARRIS

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.

98028

2007CV3493



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 23 2009

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

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

Clerk.

Willie L. Martin

Court of Appeals of the State of Georgia

ATLANTA, May 1, 2009

The Court of Appeals hereby passes the following order:

A09D0328. Powell v. The State.

On April 15, 2009, Terrence Powell filed an application for discretionary appeal, seeking to challenge a February 4, 2009 order that denied, among other things, his motion for out-of-time appeal.¹ The denial of a motion for out-of-time appeal is directly appealable. Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of 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). Powell filed his application 70 days after entry of the order at issue here. Accordingly, his application is untimely and must be DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 01 2009

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

¹ Powell first submitted his application to the Georgia Supreme Court, which transferred the case to this Court. We received the transferred application on April 9, 2009. That application, however, was not accepted for filing because it did not contain a certificate of service showing service on opposing counsel, as required by Court of Appeals Rule 6.

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

ATLANTA, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0329

AMERCO REAL ESTATE COMPANY F/K/A U-HAUL REAL ESTATE

COMPANY V. GWINNETT COUNTY ZONING BOARD OF APPEALS, ET AL

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

93028

05A09390



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

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

ATLANTA, JUNE 17, 2009

The Court of Appeals passed the following order

Case No. A09D0329

AMERCO REAL ESTATE COMPANY F/K/A U-HAUL REAL ESTATE
COMPANY V. GWINNETT COUNTY ZONING BOARD OF APPEALS, 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 JUN 17, 2009

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

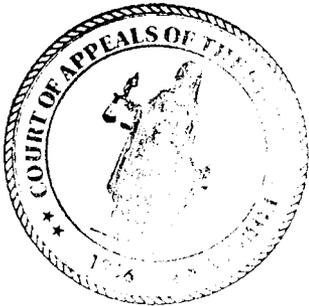
Court of Appeals of the State of Georgia

ATLANTA, April 22, 2009

The Court of Appeals hereby passes the following order:

A09D0330. JOHNNY D. THORNTON v. WINIFRED HEMPHILL.

Johnny D. Thornton filed this application for discretionary appeal seeking review of a stalking protective order entered after notice and a hearing, and which enjoined and restrained him from certain conduct for a period of 12 months. The order appealed from constitutes an injunction subject to direct appeal under OCGA § 5-6-34 (a) (4). Because the order is directly appealable, this application is **GRANTED**. OCGA § 5-6-35 (j). Thornton shall have 10 days from the date of this order to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta APR 22 2009

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

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

Will L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, April 29, 2009

The Court of Appeals hereby passes the following order:

A09D0331. In the Interest of: J. B., a child.

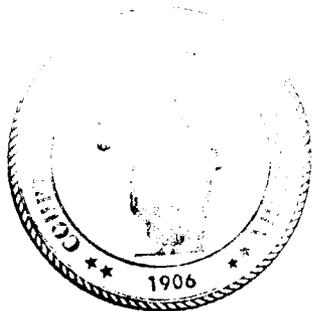
On September 25, 2008, the juvenile court terminated the mother's parental rights to two-year-old J. B. The mother filed a motion for reconsideration, which the juvenile court denied on March 17, 2009. The mother seeks to appeal this ruling. We, however, lack jurisdiction.

An application for discretionary appeal must be filed within 30 days of the order appealed from.¹ Here, the mother filed her application for discretionary appeal over 200 days after the juvenile court terminated her parental rights and thus the application is untimely. Although the mother filed a motion for reconsideration, the filing of such motion does not extend the time for filing an application for discretionary appeal.² Moreover, an order denying a motion for reconsideration is not itself appealable.³ Accordingly, this application for discretionary appeal is hereby DISMISSED.

¹ OCGA § 5-6-35 (d).

² See *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994).

³ See *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

APR 29 2009

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

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

Will. L. Martin, Clerk.

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

ATLANTA, MAY 11, 2009

The Court of Appeals hereby passes the following order:

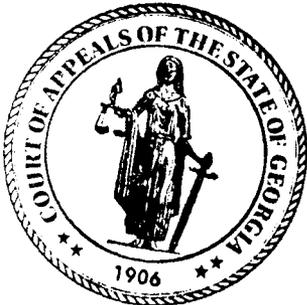
APPLICATION NO. A09D0332

BRUCE M. GREER V. THE STATE

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

70028

SU00CR324



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2009

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

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

Clerk.

Willie L. Martinez

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1528

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

BRUCE M. GREER v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0332

RECEIVED IN OFFICE
2009 SEP 25 PM 4: 12
CLERK/COURT ADMINISTRATOR
OFFICE OF THE CLERK OF THE SUPREME COURT



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.

Thomas A. Banne, Clerk.

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

ATLANTA, MAY 07, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0333
CHARLES EDWARD BERRY V. THE STATE

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

71028

01CR252



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 07 2009

*I certify that the above is a true extract from
the minutes of the 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 09, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0334

MARK CARROLL GREENE V. ALLA YURIYEVNA GREENE

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

92028

07A3488



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 09 2009

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

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

Clerk.

Will. L. McIntosh

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

ATLANTA, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0335

CITY OF JOHNS CREEK ET AL V. 10950 RETAIL, LLC D/B/A
LOVE SHACK

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

97028

2007CV142924



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

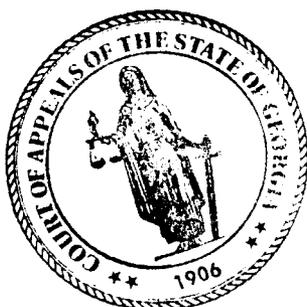
Court of Appeals of the State of Georgia

ATLANTA, May 8, 2009

The Court of Appeals hereby passes the following order:

A09D0336. Maldonado v. The State.

On April 23, 2009, Jose Carranza Maldonado filed an application for discretionary appeal, seeking to challenge a February 14, 2006 order denying his motion for out-of-time appeal. The denial of a motion for out-of-time appeal is directly appealable. Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of 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). Maldonado filed his application over three years after entry of the order at issue here. Accordingly, his application is untimely and must be DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 08 2009

*I certify that the above is a true extract from
the minutes of 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, MAY 12, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0337
DEMETRIUS EVANS V. PROFESSIONAL STANDARDS COMMISSION
OF THE STATE OF GEORGIA

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

95029

2008CV161241



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 12 2009

*I certify that the above is a true extract from
the minutes of the 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, MAY 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0338
EXECUTIVE FITNESS, LLC, D/B/A GOLD'S GYM ET AL V.
HEALEY BUILDING LIMITED PARTNERSHIP ET AL

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

96029

08GC05272



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 14 2009

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

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

ATLANTA, MAY 19, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0339

CHAD SHERIFF V. GEORGIA PUBLIC SERVICE COMMISSION

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

98029

2005CV101202



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 19 2009

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

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

ATLANTA, MAY 18, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0340

MICHAEL PRESTON HALL V. CORINA NICOLE TENNISON

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

90029

08110149



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 18 2009

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

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

ATLANTA, JUNE 05, 2009

The Court of Appeals passed the following order

Case No. A09D0340

MICHAEL PRESTON HALL V. CORINA NICOLE TENNISON

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 JUN 05, 2009*

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1683

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL PRESTON HALL v. CORINA NICOLE TENNISON

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0340

RECEIVED IN OFFICE
2009 SEP 25 PM 4:12
Clerk's Office
CLERK/COURT ADMINISTRATOR
OFFICE OF THE CLERK



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.

Theresa B..., Clerk.

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

ATLANTA, MAY 11, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0341

MCG HEALTH, INC., V. FRANK WHITFIELD 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.

93029

2008RCCV0148

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 11 2009

*I certify that the above is a true extract from
the minutes of the 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, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0342

IN THE INTEREST OF: C. R. P. , A CHILD (MOTHER)

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

91029

0182008303



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

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

ATLANTA, JUNE 03, 2009

The Court of Appeals passed the following order

Case No. A09D0342

IN THE INTEREST OF: C. R. P. , A CHILD (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 JUN 03, 2009*

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1682

Atlanta, October 5, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN THE INTEREST OF: C. R. P., a child

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0342

RECEIVED IN OFFICE
2009 OCT 26 PM 2:51
CLERK/COURT ADMINISTRATOR
COMMITTEE ON RULES OF COURTS



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 23, 2009

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.

Theresa S. Bann, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 14 2009

The Court of Appeals hereby passes the following order:

A09D0343. IN THE INTEREST OF: D. T. H., a child.

By order entered March 13, 2009, the juvenile court terminated the mother's parental rights to D. T. H. On April 23, 2009, the mother filed an application for discretionary appeal seeking to challenge this ruling. Pursuant to OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within thirty days of the order appealed. The mother failed to properly file her application within this time.¹ We thus lack jurisdiction to consider this application, which is hereby DISMISSED.



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

MAY 14 2009

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

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

Willi Z. Mat..., Clerk.

¹ The mother initially attempted to file a direct appeal, which was dismissed by order dated March 25, 2009. In that order, we informed the mother that the deadline for filing an application was April 13, 2009. We received an application for discretionary appeal postmarked on this date, but it did not contain a date-stamped copy of the order on appeal, the appropriate filing fee, or a pauper's affidavit, and thus the application could not be accepted. See Court of Appeals Rule 31 (d) & (e).

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

JUN 19 2009

A09D0343. IN THE INTEREST OF: D. T. H.

On June 2, 2009, the mother of D. T. H. filed a "Motion to Reinstate Discretionary Appeal" which is in essence a motion for reconsideration of this Court's order of May 14, 2009 denying the mother's application for discretionary appeal. The rules of this Court provide that a motion for reconsideration "must be filed within ten days of the judgment or dismissal." Rule 37 (b). Because the motion filed in the above styled application is not timely filed, we decline to review it on the merits. Accordingly the motion is hereby ordered DISMISSED.



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

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

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

Will L. Martin, Clerk.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1699

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILEY CURRY v. GABLES RESIDENTIAL SERVICES, INC., d/b/a DUNWOODY GABLES APARTMENTS

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0344

RECEIVED
2009 OCT 16 PM 3:05
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 15, 2009

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.

Theresa B..., Clerk.

Court of Appeals of the State of Georgia

ATLANTA, MAY 15 2009

The Court of Appeals hereby passes the following order:

A09D0344. Curry v. Gables Residential Services, Inc.

On January 14, 2009, the trial court granted Gables Residential Services' motion for attorney fees under OCGA § 9-15-14 and denied Wiley Curry's cross-motion for fees. Curry subsequently filed a motion for reconsideration, which was denied on March 25, 2009. He now seeks to appeal the trial court's attorney fee ruling.

Attorney fee awards entered under OCGA § 9-15-14 are appealable only pursuant to the discretionary appeal procedures in OCGA § 5-6-35 (a) (10). Seeking to comply with this requirement, Wiley filed a pro se application for discretionary appeal on April 28, 2009.¹ A discretionary application, however, must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d). Wiley submitted his application 104 days after entry of the attorney fee award. Although he filed a motion for reconsideration, such motion does not extend the time for filing a discretionary application. See *Cheeley-Towns v. Rapid Group, Inc.*, 212 Ga. App. 183 (441 SE2d 452) (1994). And even if it did extend the deadline, Wiley submitted his application 34 days after the trial court denied the motion for reconsideration. Accordingly, Wiley's application is hereby DISMISSED as untimely.²

¹ Wiley styled his pleading as an "Application for Interlocutory and or Discretionary Appeals." To the extent Wiley sought to invoke the interlocutory appeal procedure in OCGA § 5-6-34, his application is invalid because he failed to secure a certificate of immediate review from the trial court. See OCGA § 5-6-34 (b).

² In its January 14, 2009 order awarding attorney fees, the trial court also dismissed a notice of appeal previously filed by Wiley for failure to pay costs. Such



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

MAY 15 2009

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

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

Willi Z. Mart, Clerk.

ruling is directly appealable, and we generally will grant a discretionary application involving a directly appealable order. See OCGA § 5-6-35 (j); *Castleberry's Food Co. v. Smith*, 205 Ga. App. 859, 860 (424 SE2d 33) (1992). This general rule, however, only applies if the application meets the 30-day filing deadline. As discussed above, Wiley failed to submit a timely application. We therefore lack jurisdiction to consider any claim that the trial court erred in dismissing the prior notice of appeal.

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

ATLANTA, JUNE 05, 2009

The Court of Appeals passed the following order

Case No. A09D0344

WILEY CURRY V. GABLES RESIDENTIAL SERVICES, INC., D/B/A
DUNWOODY GABLES APARTMENTS

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 JUN 05, 2009*

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

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

Clerk.

Willie L. Martin

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

ATLANTA, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0345

IN THE INTEREST OF : A. R. , N. R. , R. R. , Y. R. , CHILDREN (MOTHER)

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

71029

9284



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

Court of Appeals of the State of Georgia

ATLANTA, May 8, 2009

The Court of Appeals hereby passes the following order:

A09D0346. McSMITH v. MILLER.

Derek Leroy McSmith attempted to file an appeal to this court of a magistrate court order denying the issuance of a criminal warrant. In the instant application for discretionary appeal, McSmith seeks to appeal the magistrate court's order dismissing that prior appeal. A judgment entered in the magistrate court, however, may only be reviewed in the state court or in the superior court as provided under OCGA § 15-10-41. *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). The application is therefore **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 08 2009

*I certify that the above is a true extract from
the minutes of 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, MAY 19, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0347

LEROY BANKS III V. K-2 TOWING

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

97029

2009644



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 19 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1603

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

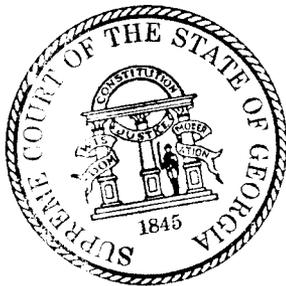
LEROY BANKS III v. K-2 TOWING

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

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0347

RECEIVED IN OFFICE
2009 OCT 16 PM 3:33
CLERK'S OFFICE
COURT OF APPEALS
COURT REPORTERS ASSOCIATION



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 15, 2009

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.

Theresa Bane, Clerk.



SUPREME COURT OF GEORGIA

Case No. **S09C1603**

Atlanta **September 8, 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LEROY BANKS, III v. K-2 TOWING

The Court of Appeals denied petitioner's discretionary application on May 19, 2009. Thus the petition for certiorari was required to be filed by June 8, 2009. Sup. Ct. R. 38 (2). Because it was not filed until June 9, 2009, it is untimely, and the Court hereby orders that it be dismissed



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, May 7, 2009

The Court of Appeals hereby passes the following order:

A09D0348. Greer v. The State.

Ronnie Greer has filed an application for discretionary appeal with this Court, seeking to challenge the trial court's order denying his petitions for writ of habeas corpus. The Supreme Court has appellate jurisdiction over all cases involving habeas corpus. Ga. Const. 1983, Art. VI, Sec. VI, Par. III (4). Accordingly, Greer's application is hereby TRANSFERRED to the Supreme Court for disposition.



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

MAY 07 2009

*I certify that the above is a true extract from
the minutes of 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, MAY 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0349

HULON THACKSTON 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.

95030

01900



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 14 2009

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

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

ATLANTA, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0350

W. RAY CAMP, INC., ET AL V. CALVARY PORTFOLIO SERVICES, LLC

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

96030

07GC095030



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

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

ATLANTA, MAY 21, 2009

The Court of Appeals hereby passes the following order:

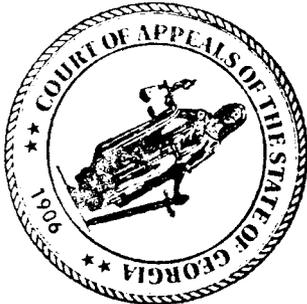
APPLICATION NO. A09D0351

ULYSSES REYNOLDS V. WILLSTAFF CRYSTAL, INC., ET AL

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

98030

09CV00669



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

MAY 21 2009

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

MAY 27 2009

The Court of Appeals hereby passes the following order:

A09D0352. Oliver v. The State.

Daniel Oliver pled guilty to violating the Georgia Controlled Substances Act in January 2008. He was sentenced to seven years confinement, with the first three years to be suspended upon entry and completion of an in-house drug treatment program, and the final four years to be served on probation. Later that year, however, he was arrested for several new offenses, and the State moved to revoke his probation and suspended sentence. Finding that Oliver had committed the new offenses and had violated the conditions of his suspended sentence, the trial court revoked the probated and suspended portions of the seven-year sentence.

Oliver has filed an application for discretionary appeal, seeking to challenge not only the probation revocation, but the revocation of his suspended sentence, as well. Although appeals from orders revoking probation are subject to the discretionary appeal procedures in OCGA § 5-6-35 (a) (5), those procedures do not apply to orders revoking a suspended sentence. Such orders are directly appealable. See *Serpentfoot v. State*, 241 Ga. App. 35 (524 SE2d 516) (1999) (direct appeal of a suspended sentence revocation); *White v. State*, 233 Ga. App. 873, 875 (505 SE2d 228) (1998) (noting that OCGA § 5-6-35 (a) (5) “on its face applies only to ‘orders revoking probation.’”). Accordingly, Oliver’s application for discretionary appeal is hereby GRANTED pursuant to OCGA § 5-6-35 (j). Oliver shall have ten (10) days from the date of this order to file a notice of appeal.¹ The clerk of the superior court is

¹ Because the order revoking his suspended sentence is directly appealable, Oliver may also challenge his probation revocation in this appeal. See OCGA § 5-6-34 (d).

DIRECTED to include a copy of this order in the appeal record transmitted to this Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 27 2009

I certify that the above is a true extract from the minutes of 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, MAY 21, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0353
ADVANCE AUTO PARTS ET AL V. PHILLIP REVILLE

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.

93030

2009CA122

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 21 2009



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

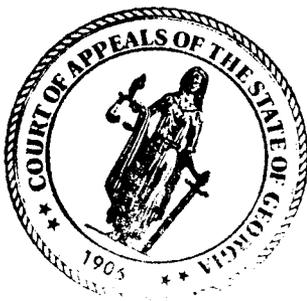
ATLANTA, MAY 14 2009

The Court of Appeals hereby passes the following order:

A09D0354. TIMOTHY THOMAS OGLESBY v. THE STATE.

Timothy Thomas Oglesby filed this application seeking a discretionary appeal from the trial court's order granting in part and denying in part his motion alleging that his sentence is void. The court granted Oglesby's motion as to the restitution component of his sentence but denied it as to the remainder of the sentence. Oglesby contends that the court erred to the extent it denied his motion because absent evidence of the value of the stolen property, he could only be sentenced for a misdemeanor.

The denial of a motion to correct a void or illegal sentence is directly appealable as a matter of right. *Williams v. State*, 271 Ga. 686, 689 (1) (523 SE2d 857) (1999). Because Oglesby has also filed a timely notice of appeal in the superior court from the same order complained of in his application, the application need not be granted under OCGA § 5-6-35 (j). Therefore, Oglesby's application for discretionary appeal is **DISMISSED** as superfluous.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 14 2009

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

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

Willi Z. Mat...

, Clerk.

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

ATLANTA, MAY 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0355
MICHAEL GOOLSBY V. ALLISON BROWN

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

94030
04V573



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **MAY 27 2009**

*I certify that the above is a true extract from
the minutes of the 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, MAY 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0356

OTUWA OTUWA 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.

70030

03580



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 15 2009

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

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

ATLANTA, MAY 21, 2009

The Court of Appeals hereby passes the following order:

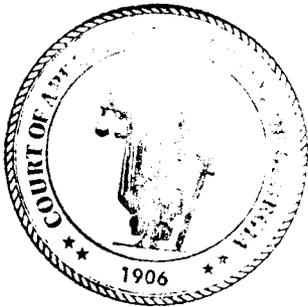
APPLICATION NO. A09D0357

MICHAEL KING V. CLAYTON COUNTY BOARD OF EDUCATION ET AL

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

71030

2008CV04909



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 21 2009

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

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

Clerk.

Will. L. Martin

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

ATLANTA, JUNE 05, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0358

IN THE INTEREST OF : B. A. AND Z. A. , CHILDREN (MOTHER)

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

92030

08CV1489



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 05 2009

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

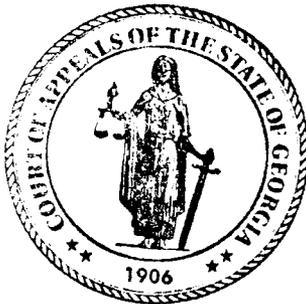
ATLANTA, May 28, 2009

The Court of Appeals hereby passes the following order:

A09D0359. HARGROVE v. THE STATE.

Gary Hargrove filed an application for discretionary appeal from the denial of his "Motion to Set Aside the Verdict and Vacate the Judgement" of an allegedly void sentence. The denial of a motion to correct a void or illegal sentence is directly appealable as a matter of right.¹ Hargrove's appeal, therefore, does not require a discretionary application.

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the lower court's order is subject to direct appeal. Accordingly, Hargrove's application is hereby GRANTED. Hargrove shall have 10 days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the appellate record.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 28 2009

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

¹ See *Chester v. State*, 284 Ga. 162 (664 SE2d 220) (2008).

Court of Appeals of the State of Georgia

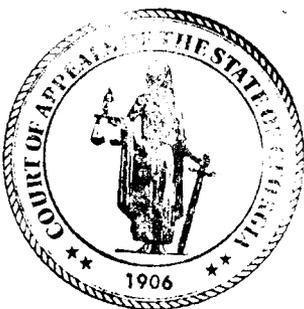
ATLANTA, May 29, 2009

The Court of Appeals hereby passes the following order:

A09D0360. Allen v. Department of Corrections et al.

On March 26, 2009, Monaleta D. Allen filed with the Supreme Court an application seeking discretionary review of a February 18, 2009 superior court order. The Supreme Court subsequently transferred the application to the Court of Appeals.

We lack jurisdiction over the application. To confer jurisdiction on this Court, an application for discretionary review must be filed within 30 days of the order sought to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). The record shows that Allen filed his application 36 days after entry of the superior court's order. Accordingly, we have no authority to consider the matter, which is hereby DISMISSED.



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

MAY 29 2009

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

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

William L. Martinez, Clerk.

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

ATLANTA, MAY 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0361

DOROTHEA CORNELIUS V. US BANK NATIONAL ASSOCIATION
AS TRUSTEE

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

95031

2008CV05710



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 22 2009

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

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

Clerk.

Willie L. Martin

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

ATLANTA, MAY 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0362
TONY STEPHENS V. WILLIAM TERRY ET AL

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

96031

2009CV005

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 14 2009

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



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

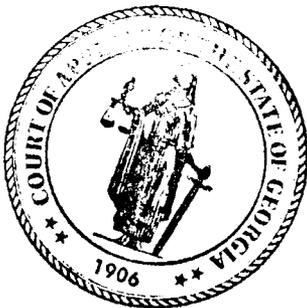
ATLANTA, JUNE 01, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0363
RESTAFF, INC., ET AL V. JAMES VEAL

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

98031
08V540



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

JUN 01 2009

*I certify that the above is a true extract from
the minutes 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, JUNE 02, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0364

RHEEM MANUFACTURING CO. ET AL V. BOBBY B. JONES

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

90031

09CV43055B



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 02 2009

*I certify that the above is a true extract from
the minutes of the 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, June 5, 2009

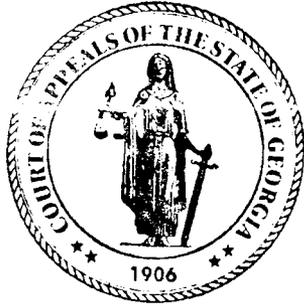
The Court of Appeals hereby passes the following order:

A09D0365. WILLIAM F. WALSH v. THE STATE.

William F. Walsh seeks discretionary review of the trial court's order denying his motion to proceed *in forma pauperis* in his continuing effort to obtain an out-of-time appeal of his criminal conviction.¹ The determination of whether a defendant is indigent lies within the trial court's discretion, and "this determination is not subject to review." *Hawkins v. State*, 222 Ga. App. 461, 462 (1) (474 SE2d 666) (1996). Although this Court may review whether the trial court employed the proper procedure in determining indigence, see *id.*, Walsh has not shown that the trial court employed an erroneous procedure. We therefore DENY this application.

Walsh has also filed a motion for an extension of time to submit a file-stamped copy of the trial court's order. The motion for extension of time is DISMISSED as MOOT.

¹ The trial court denied Walsh's motion for an out-of-time appeal by order entered on September 23, 2008. Walsh filed a timely notice of appeal on October 15, 2008. The denial of a motion for out-of-time appeal is directly appealable. See *Butts v. State*, 244 Ga. App. 366 (536 SE2d 154). For reasons that are not entirely clear, however, that appeal has not yet been docketed in this Court. We trust that the trial court will transmit the record to this Court in due course so that the appeal may proceed.



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

JUN 05 2009

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

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

Will L. Martin, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, May 28, 2009

The Court of Appeals hereby passes the following order:

A09D0366. MATHEWS v. MATHEWS.

Leslie Mathews filed this discretionary application seeking to appeal the order awarding primary physical custody of the parties' children to Zachary Mathews. The trial court entered the order in the parties' pending divorce case.¹ Although the trial court captioned the order "final order on custody and visitation," issues remain pending and the trial court failed to direct entry of judgment under OCGA § 9-11-54 (b). Therefore, Mathews was required to follow the interlocutory appeal procedures.² OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Her failure to do so deprives this court of jurisdiction to consider the application, which is therefore **DISMISSED**.

¹Citing *Egeland v. Egeland*, 279 Ga. 565 (619 SE2d 596) (2005) and *Carter v. Foster*, 247 Ga. 26 (273 SE2d 614) (1981), the Supreme Court transferred the application to this court on the ground that "[b]ecause no final judgment of divorce has issued, the case does not invoke [its] jurisdiction over cases involving divorce and alimony." But see Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6) ("[T]he Supreme Court shall have appellate jurisdiction of . . . [a]ll divorce and alimony cases. . . .").

²Although OCGA § 5-6-34 (a) (11) renders interlocutory orders entered in child custody cases directly appealable, the provision applies to cases filed after January 1, 2008. Ga. Laws 2007, p. 569, § 8. See also *Moore v. Moore-McKinney*, Ga. App. (Case No. A09A0262, decided May 6, 2009) (holding parties seeking to appeal orders entered in child custody cases are no longer required to file an application for discretionary appeal). This case, apparently, was filed in 2007.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 28 2009

*I certify that the above is a true extract from
the minutes of 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, JUNE 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0367
GLORIA MCCRORY V. CHARLES O. MCCRORY

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

94031

08E000346



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

JUN 04 2009

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

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

Clerk.

Will. L. Mat... [Signature]

Court of Appeals of the State of Georgia

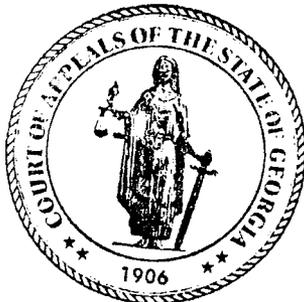
ATLANTA, May 29, 2009

The Court of Appeals hereby passes the following order:

A09D0368. LaSonde v. The Bank of New York Trust Company, N. A.

Jack LaSonde seeks discretionary review of a magistrate court order directing him to pay rent into the registry of the court in this dispossessionary action. We lack jurisdiction to consider LaSonde's application. "The only avenue of appeal available from [a] magistrate court judgment is provided by OCGA § 15-10-41 (b) (1), which allows for a de novo appeal to the state or superior court." *Handler v. Hulsey*, 199 Ga. App. 751 (406 SE2d 225) (1991). In other words, a party aggrieved by a magistrate court ruling must first seek review in the state or superior court. LaSonde failed to follow this procedure, seeking instead an immediate appeal to this Court.

Because we can only address magistrate court matters that have been reviewed by the state or superior court, we have no authority to consider LaSonde's application. See *id.*; *Westwind Corp. v. Washington Federal Savings & Loan Assn.*, 195 Ga. App. 411 (1) (393 SE2d 479) (1990). Moreover, although the order about which LaSonde complains is interlocutory, he failed to follow the interlocutory appeal procedures in OCGA § 5-6-34 (b). Accordingly, the application is hereby DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 29 2009

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

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

Will L. Martin, Clerk.

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

ATLANTA, JUNE 26, 2009

The Court of Appeals passed the following order

Case No. A09D0368

JACK LASONDE V. THE BANK OF NEW YORK TRUST COMPANY, N.A.

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 JUN 26, 2009*

*I certify that the above is a true extract from
the minutes of the 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 09, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0369
VARIETY WHOLESALERS ET AL V. PEGGY MORGAN

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

71031

09CV00951



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

JUN 09 2009

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

May 29, 2009

The Court of Appeals hereby passes the following order:

A09D0370. GRIGGS v. THE STATE.

Nathaniel Griggs filed this application for discretionary appeal to challenge the order denying his “notice of intent to file an extraordinary motion for new trial on newly available evidence and laws,” which the trial court construed as an extraordinary motion for new trial. The order was entered March 5, 2009. Griggs filed his application May 11, 2009.¹ A discretionary application must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d). Griggs submitted his application 67 days after entry of the order. Although he filed a motion for reconsideration, such motion does not extend the time for filing a discretionary application. See *Cheeley-Towns v. Rapid Group, Inc.*, 212 Ga. App. 183 (441 SE2d 452) (1994). And even it did extend the deadline, Griggs submitted his application 34 days after the date of the trial court’s letter declining to rule on the motion. Griggs’s application is untimely and is therefore **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

MAY 29 2009

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

¹Griggs’s original submission was not accepted for filing because it lacked a filing fee or sufficient pauper’s affidavit as required by OCGA § 5-6-4 and Court of Appeals Rules 5, 31 (d).

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1628

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

NATHANIEL GRIGGS v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0370

RECEIVED IN OFFICE
2009 SEP 25 PM 4:12
C. J. ...
CLERK/COURT ADMINISTRATOR
SUPREME COURT OF GA.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.



Thuse Lane, Clerk.

Court of Appeals
of the State of Georgia

ATLANTA, JUNE 11, 2009

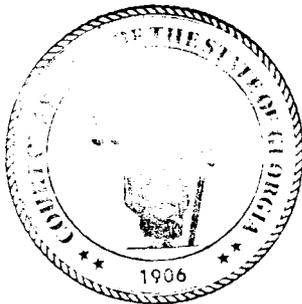
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0371
FLOORING MECHANICS LLC D/B/A FLOOR FINISHERS ET AL
V. CHARLES PHILLIPS

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

97031

SA09A00734



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 11 2009

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

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

Clerk.

Will L. Mant

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1723

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

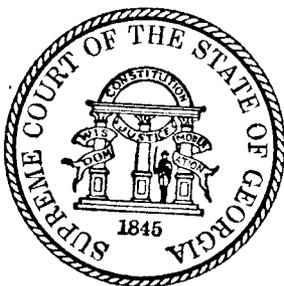
FLOORING MECHANICS LLC, d/b/a FLOOR FINISHERS et al v. CHARLES PHILLIP S

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0371

RECEIVED IN OFFICE
2009 SEP 25 PM 4: 12
Clerk/Court Administrator
OFFICE OF THE CLERK OF THE SUPREME COURT



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.

[Handwritten Signature], Clerk.



SUPREME COURT OF GEORGIA
Case No. S09D0776

Atlanta February 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

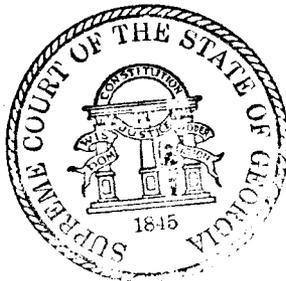
A09D0372

The following order was passed:

MICHAEL A. DIXON v. THE STATE

From the Superior Court of Cobb County.

The trial court denied applicant's "Motion for Relief from Judgment" and he filed a discretionary appeal in this Court based on its constitutional question jurisdiction. Applicant, who pled guilty to several non-capital felonies, appears to be arguing that when he entered his plea and was sentenced the Board of Pardons and Paroles had a 90% policy that subsequently was determined to be improper and ineffective. Therefore, he contends his judgment and sentence were void for various constitutional reasons, including due process and equal protection. Even if applicant is raising a valid constitutional challenge, jurisdiction does not rest in this Court as resolution of the issue requires only the application of unquestioned and unambiguous constitutional provisions to the facts of this case, see Zepp v. Mayor & Council of the City of Athens, 255 Ga. 449 (339 SE2d 576) (1986). Accordingly, the appeal 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.~~

Levette Eickson, Deputy Clerk

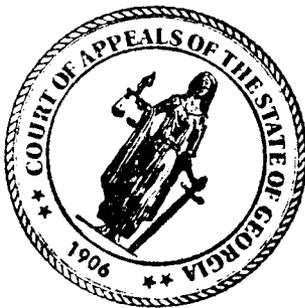
Court of Appeals of the State of Georgia

ATLANTA, June 5, 2009

The Court of Appeals hereby passes the following order:

A09D0372. Dixon v. The State.

On May 12, 2009, Michael A. Dixon filed an application for discretionary review, seeking to challenge a January 6, 2009 order denying his "Motion for Relief from Judgment."¹ A discretionary application must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). Dixon submitted his application 126 days after entry of the trial court's order. His application, therefore, is untimely, and we lack jurisdiction to consider it. Accordingly, the application is DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 05 2009

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

¹ Dixon first submitted his application to the Georgia Supreme Court, which transferred the case to this Court. We received the transferred application on March 6, 2009. That application, however, was not accepted for filing because it did not contain the \$80 filing fee or a sufficient pauper's affidavit. See OCGA § 5-6-4. The application also did not include a certificate of service showing service on opposing counsel, as required by Court of Appeals Rule 6.

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1690

Atlanta, October 5, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MICHAEL A. DIXON v. THE STATE

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00
Court of Appeals Case No. A09D0372

S09D0776

CLERK'S OFFICE
SUPREME COURT OF GEORGIA
OCT 26 2009

OCT 26 PM 2:51

CLERK'S OFFICE

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta October 23, 2009

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.



Theresa S. Bame, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 5, 2009

The Court of Appeals hereby passes the following order:

A09D0373. JOSEPHINE TOMBO LOPEZ v. DOUGLAS E. KAUFMAN.

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED. Respondent's motion to dismiss the application is also DENIED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 05 2009

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

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

Will L. Martinez, Clerk.

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

ATLANTA, JUNE 24, 2009

The Court of Appeals passed the following order

Case No. A09D0373

JOSEPHINE TOMBO LOPEZ V. DOUGLAS E. KAUFMAN

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 JUN 24, 2009*

*I certify that the above is a true extract from
the minutes of the 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, June 2, 2009

The Court of Appeals hereby passes the following order:

A09D0374. JAMES W. WHITAKER v. THE STATE.

James W. Whitaker filed this application for discretionary appeal from the order dismissing his “motion to vacate or set aside.” The order was entered April 6, 2009. Whitaker filed his application May 14, 2009. A discretionary application must be filed within 30 days of entry of the order sought to be appealed. See OCGA § 5-6-35 (d). Whitaker submitted his application 38 days after entry of the order. Although he filed a motion for reconsideration, such motion does not toll the time for filing an application to appeal. *Harris v. State*, 278 Ga. 280 n. 3 (600 SE2d 592) (2004). For these reasons, Whitaker’s application for discretionary appeal is **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 02 2009

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

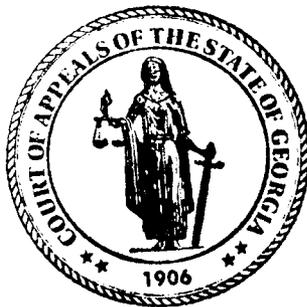
Court of Appeals of the State of Georgia

ATLANTA, June 8, 2009

The Court of Appeals hereby passes the following order:

A09D0375. BONNER v. DEUTSCHE BANK NATIONAL TRUST COMPANY.

On May 18, 2009, William Bonner filed an application for discretionary appeal from a judgment and writ of possession entered May 7, 2009.¹ Appeals in dispossessory actions, however, must be filed within seven days after entry of the order at issue.² Because Bonner filed his notice of appeal 11 days after entry of the order he challenges, his application is untimely and is therefore *DISMISSED* for lack of jurisdiction.³



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

JUN 08 2009

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

¹ It is unclear why Bonner filed an application rather than a direct appeal. It is possible that the case originated in magistrate court, which would make the appeal subject to the discretionary application procedure. See OCGA § 5-6-35 (a) (11). Because Bonner did not include a copy of the original petition which led to the trial court's order, we have no means of ascertaining its origin. See Court of Appeals Rule 31 (b).

² See OCGA § 44-7-56; *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999).

³ Had Bonner timely filed his application, it would have been granted pursuant to OCGA § 5-6-35 (j).

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

ATLANTA, JULY 02, 2009

The Court of Appeals passed the following order

Case No. A09D0375

WILLIAM A. BONNER V. DEUTSCHE BANK NATIONAL TRUST COMPANY

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, 2009*

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1850

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WILLIAM A. BONNER v. DEUTSCHE BANK NATIONAL TRUST COMPANY

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

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0375

RECEIVED IN OFFICE
2009 SEP 25 PM 4:11
CLERK'S OFFICE
SUPREME COURT OF GEORGIA



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.

Thomas J. Baker, Clerk.



SUPREME COURT OF GEORGIA

Case No. **S09C1850**

Atlanta **September 8, 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**WILLIAM A. BONNER V. DEUTSCHE BANK NATIONAL TRUST
COMPANY**

The Court of Appeals dismissed petitioner's application to appeal on June 8, 2009 and denied his motion for reconsideration on July 2, 2009. Therefore, the petition for certiorari was due to be filed in this Court on or before July 22, 2009. Sup. Ct. R. 38 (2). Because the petition was not filed until July 23, 2009, the Court hereby orders that it be dismissed.



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, JUNE 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0376

JENNIFER PITTARD V. THE STATE

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

90032

SU09CR0120



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 04 2009

*I certify that the above is a true extract from
the minutes of the 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 9, 2009

The Court of Appeals hereby passes the following order:

A09D0377. KIMBERLY CLARK v. STEVE ROBERTS.

On May 20, 2009, Kimberly Clark filed an application for discretionary review, seeking to challenge the trial court's March 5, 2009 order dismissing his pro se civil action seeking monetary damages and release from incarceration.¹ A discretionary application must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). Clark submitted his application 76 days after entry of the trial court's order. His application, therefore, is untimely, and we lack jurisdiction to consider it. Accordingly, the application is DISMISSED.



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

JUN 09 2009
*I certify that the above is a true extract from
the minutes of 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.

¹ Clark first submitted this application to the Supreme Court, which transferred it here. We received the transferred application on May 6, 2009. That application, however, was not accepted for filing because it did not contain the \$80 filing fee or a sufficient pauper's affidavit. See OCGA § 5-6-4.

Court of Appeals of the State of Georgia

ATLANTA, JULY 13, 2009

Honorable Court of Appeals hereby passes the following order:

A09D0377. KIMBERLY CLARK v. STEVE ROBERTS.

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

93-032

08CV881



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 13 2009

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

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

Clerk.

Willie L. Martin

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

ATLANTA, JUNE 17, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0378

SHANTAE SMITH, PERSONALLY AND AS ADMINISTRATOR OF THE
ESTATE OF ERIC SMITH V. GEORGIA STATE INDEMNIFICATION
COMMISSION

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

91032

2008S09898



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

JUN 17 2009

*I certify that the above is a true extract from
the minutes of the 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 11, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0379

IN THE INTEREST OF: W. M. C. , A CHILD (MOTHER)

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

94032

0900285



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 11 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0380
MICHAEL MILLER V. MOLLY WHEATLEY

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

70032

2007CV140457



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 12, 2009

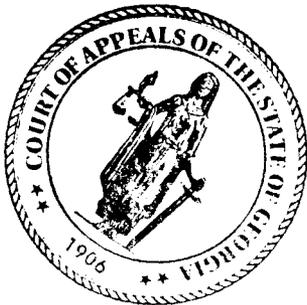
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0381
LINDA FAYE HAGANS V. MICHAEL L. THURMOND, ET AL

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

71032

2009CV164859



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

JUN 12 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S09C1701

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

LINDA FAYE HAGANS v. MICHAEL L. THURMOND et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0381

RECEIVED IN OFFICE
2009 SEP 25 PM 4: 12
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta September 23, 2009

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.

Theresa Ba, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 4, 2009

The Court of Appeals hereby passes the following order:

A09D0382. JONATHAN JARMAN v. NANCY BAUER JARMAN.

After obtaining an order allowing him to withdraw his motions for new trial, Jonathan Jarman filed this application to challenge multiple orders of the trial court, including an order finding him to be in contempt of certain non-custodial provisions of the parties' 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." (Punctuation omitted.) *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). See also, Const. of 1983, Art. VI, § VI, Par. III (6); *Morris v. Morris*, 284 Ga. 748 (670 SE2d 84) (2008). This application is therefore **TRANSFERRED** to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 04 2009

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

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

William L. Martin

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, June 10, 2009

The Court of Appeals hereby passes the following order:

A09D0383. WAUCHOPE et al. v. LITTON LOAN SERVICES, LP.

Radcliffe and Sadie Wauchope filed a wrongful foreclosure complaint against Litton Financial Services, L. P. The Wauchopes also sought a temporary injunction. The trial court denied the petition for a temporary injunction and permitted Litton Financial to execute its writ of possession *instanter*. The Wauchopes filed an application for discretionary appeal from this ruling.¹ However, the order complained of is directly appealable under OCGA § 5-6-34 (a) (4).

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicants have not filed a timely notice of appeal. Because this application falls under OCGA § 5-6-35 (j), it is GRANTED. The Wauchopes shall have ten days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The Clerk of the Superior Court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

¹ We note that if the Wauchopes had brought their action as a counterclaim to the dispossessory action, OCGA § 44-7-56 would have governed the appeal. See *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521, 522-523 (521 SE2d 456) (1999).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 10 2009

*I certify that the above is a true extract from
the minutes of 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, JUNE 11, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0384

JAVIER QUIROZ V. THE STATE

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

99032

02B1731



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

JUN 11 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 10, 2009

The Court of Appeals hereby passes the following order:

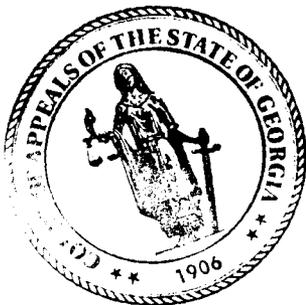
APPLICATION NO. A09D0385

JEAN JOCELYN MERILIE V. LARRY THOMAS 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.

95033

08CV49606



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 10 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 17, 2009

The Court of Appeals hereby passes the following order:

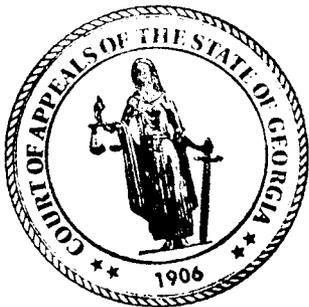
APPLICATION NO. A09D0386

RICK PONDER V. YVONNE PONDER

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

96033

09F01230



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

JUN 17 2009

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

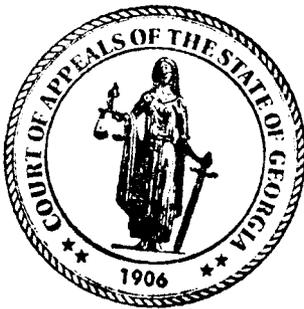
Court of Appeals of the State of Georgia

ATLANTA, June 3, 2009

The Court of Appeals hereby passes the following order:

A09D0387. SHAZER v. DONALD.

On May 20, 2009, Nathaniel Shazer filed an application for discretionary appeal from the trial court's order entered April 2, 2009.¹ To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed.² As this application was filed 48 days after entry of the order Shazer purportedly seeks to appeal, it is untimely. The application for discretionary appeal is therefore DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUN 03 2009

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

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

Will L. Matz, Clerk.

¹ It is not entirely clear what Shazer is seeking to appeal. From his argument, it appears he is appealing the revocation of his probation. However, the only order included with the application is an "Order on Petitioner's Motion to Compel," which does not reference the revocation of Shazer's probation. Pursuant to Court of Appeals Rule 31 (e), applications must contain a stamped, "filed" copy of the order the applicant seeks to appeal.

² See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

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

ATLANTA, JUNE 11, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0388
DAVID CHASTAIN TURNER V. THE GEORGIA DEPARTMENT OF
HUMAN RESOURCES, EX. REL. GAVIN HARRIS

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

90033

07CV4061



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

JUN 11 2009

*I certify that the above is a true extract from
the minutes of the 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 17, 2009

The Court of Appeals hereby passes the following order:

A09D0389. IN RE: ESTATE OF EDDIE WILSON STEWART.

Attorney Tracy Rhodes, who represents a caveator in this probate matter, seeks discretionary review of an award of attorney fees imposed against her based on her conduct in obtaining an ex parte order. The action began in the probate court, but was appealed to the superior court, which entered the fee award.

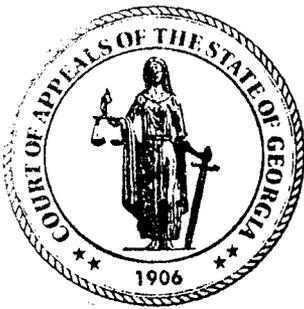
Generally, a party must follow the discretionary appeal procedures to appeal the award of OCGA § 9-15-14 attorney fees. OCGA § 5-6-35 (a) (10). However, the materials provided in support of this application suggest that this case is still pending in the superior court. Therefore, Rhodes was required to follow the interlocutory appeal procedures. See OCGA § 5-6-34 (b); *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 589 (408 SE2d 103) (1991). Her failure to do so deprives this Court of jurisdiction to consider this application, which is therefore DISMISSED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 17 2009

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

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

William L. Martin, Clerk.



Court of Appeals of the State of Georgia

ATLANTA,

JUL 13 2009

The Court of Appeals hereby passes the following order:

A09D0389. IN RE: ESTATE OF EDDIE WILSON STEWART.

Attorney Tracey Rhodes has filed a motion for reconsideration of the dismissal of her application for appeal. She contends that the application should be reinstated because the matter which was once pending in the superior court has now been returned to the probate court. This motion misconstrues the nature of our ruling.

In *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588-589 (1) (408 SE2d 103) (1991), our Supreme Court held that

[I]ooking to the express language of the statutes, we find that the discretionary-application statute requires a party to state if the order or judgment is interlocutory, and if it is interlocutory, the party must state “the need for *interlocutory appellate review*.” (Emphasis supplied.) OCGA § 5-6-35 (b). The interlocutory-application subsection, OCGA § 5-6-34 (b), sets forth the procedure for seeking “interlocutory appellate review.” The discretionary-application statute “does not relieve appellant [who seeks review of an interlocutory order] of the requirement of a certificate from the trial judge.” [Cit.]

Division 1 of the *Straus* decision does violence to the legislative intent by stripping control from the trial courts. The legislature did not intend for parties to regulate litigation. Allowing parties involved in divorce actions absolute authority to seek appellate review of interlocutory orders will produce unnecessary delays in the trial courts and breed fragmented and piecemeal appeals. We expressly overrule Division 1 of *Straus* and hold that the discretionary-application statute,

OCGA § 5-6-35, does not allow a party to ignore the interlocutory-application subsection, OCGA § 5-6-34 (b), when attempting to obtain appellate review.

Furthermore, the certificate of immediate review is not “surplusage.” [Cit.] The certificate is an essential component of a trial court’s power to control litigation. Therefore, a party seeking appellate review from an interlocutory order must follow the interlocutory-application subsection, OCGA § 5-6-34 (b), seek a certificate of immediate review from the trial court, and comply with the time limitations therein.

At the time this application was filed, the case remained pending in the superior court. Therefore, a jurisdictional prerequisite was complying with the time limitations in OCGA § 5-6-34 (b) and obtaining a certificate of immediate review. Rhodes having failed to meet those requirements, this court had no jurisdiction to consider her application then, and, as she is attempting to appeal that same order, we have no jurisdiction now. Moreover, the motion for reconsideration notes that the case remains pending below, and, thus, OCGA § 5-6-34 (b) still applies.

The motion for reconsideration is denied.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 13 2009

I certify that the above is a true extract from the minutes of 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, JUNE 18, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0390
LARRY ALAN THOGERSON V. THE STATE

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

91033

083766



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

JUN 18 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 16, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0391
IN THE INTEREST OF : A. R. S. , A CHILD (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 JUVENILE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94033

02808J786



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 16 2009

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

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

Clerk.

Willi L. Martin

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

ATLANTA, JUNE 16, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0392
JACKIE CRAIG V. DEPARTMENT OF HUMAN RESOURCES

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

70033

2009CV162472



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

JUN 16 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

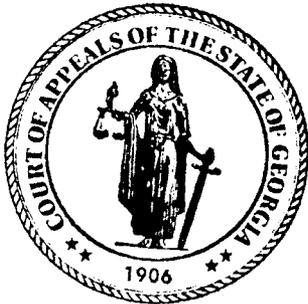
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0393
CATHELENE ROBINSON V. STUART D. GLASS

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

71033

2008CV146886



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 15 2009

*I certify that the above is a true extract from
the minutes of the 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 30, 2009

The Court of Appeals hereby passes the following order:

A09D0394. VENTERIS L. HOBSON v. THE STATE

On June 1, 2009, this Court received from a pro se appellant some pleadings which the clerk's office docketed as an Application for Discretionary Appeal. Upon consideration of the documents by the Court, the Court has determined that this is not an Application for Discretionary Appeal, but a motion requesting an extension of time to file a Discretionary Application.

There are no extensions of time permitted in the filing of applications, neither under the statutes of this State nor the rules of this Court. However, since the document is not in fact an application, the same is hereby dismissed as MOOT.

The clerk of this Court is ordered to return the documents to the pro se, Venteris L. Hobson.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 30 2009



I certify that the above is a true extract from the minutes of 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, June 18, 2009

The Court of Appeals hereby passes the following order:

A09D0395. COLQUITT v. THE STATE.

Antonio Colquitt filed an application for discretionary appeal on June 3, 2009, seeking to appeal an order revoking his probation. Colquitt has not, however, included a copy of this order with his application as required by Court of Appeals Rule 31 (e). To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed.¹ Here, Colquitt's failure to include a date-stamped copy of the order precludes us from assuming jurisdiction in this matter. Accordingly, this application for discretionary appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 18 2009

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

¹ OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Court of Appeals of the State of Georgia

ATLANTA, June 26, 2009

The Court of Appeals hereby passes the following order:

A09D0396. JAY PHILLIP GRUND v. TRACY ANN SPRINKLE.

Jay Phillip Grund seeks discretionary review of the denial of his motion to set aside an order modifying his child support obligation set forth in his final divorce decree. 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). As the underlying subject matter in this case involves child support, this Court lacks 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.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 26 2009

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

JUN 10 2009

A09D0397. DAVID BLOHM v. KATHRYN SOLOMON.

David Blohm filed this application for discretionary appeal of the order denying his motion to set aside an order finding him to be in contempt of certain non-custodial provisions of the parties' 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." (Punctuation omitted.) *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). See also Const. of 1983, Art. VI, § VI, Par. III (6); *Morris v. Surges*, 284 Ga. 748 (670 SE2d 84) (2008). This application is therefore **TRANSFERRED** to the Supreme Court for disposition.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 10 2009

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

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

Will L. Martin, Clerk.



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

ATLANTA, JUNE 24, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0398
MURIEL W. LANGE V. STATE OF GEORGIA

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

96034
06CV2400

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUN 24 2009



*I certify that the above is a true extract from
the minutes of the 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 02, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0399

ELLA INGRAM STUBBS V. RHEEM MANUFACTURING CO., ET AL

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

98034

NONE



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 02 2009

*I certify that the above is a true extract from
the minutes of the 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 21, 2009

The Court of Appeals passed the following order

Case No. A09D0399

ELLA INGRAM STUBBS V. RHEEM MANUFACTURING CO., 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 JUL 21, 2009*

*I certify that the above is a true extract from
the minutes of the 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, JUNE 29, 2009

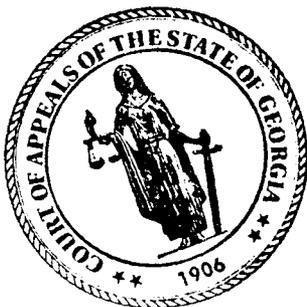
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0400
RHONDA DILYNN SOSEBEE 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.

90034

09CR04



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

JUN 29 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 25, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0401
IN THE INTEREST OF X. T. C. , A CHILD (FATHER)

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

93034

085684



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

JUN 25 2009

*I certify that the above is a true extract from
the minutes of the 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, June 17, 2009

The Court of Appeals hereby passes the following order:

A09D0402. IN THE INTEREST OF: J. G., A CHILD (MOTHER).

The mother of minor child J. G., who is currently in the custody of his grandmother, seeks to appeal a juvenile court order denying her request to have J. G. returned to her custody. Under newly amended OCGA § 5-6-34 (a) (11), “[a]ll judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody . . .” are directly appealable.¹ See *Moore v. Moore-McKinney*, __ Ga. App. __ (Case No. A09A0262, decided May 6, 2009); see also *Taylor v. Curl*, __ Ga. App. __ (Case No. A09A0749, decided May 19, 2009) (even interlocutory orders in child custody cases are directly appealable). Because the order that the mother seeks to appeal refuses to change child custody, it is directly appealable under OCGA § 5-6-34 (a) (11).

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 *GRANTED*. The mother shall have ten days from the date of this order to file a notice of appeal. OCGA § 5-6-35 (g). The clerk of the juvenile court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

¹ The amendment applies “to all child custody proceedings and modifications of child custody filed on or after January 1, 2008.” Ga. Laws 2007, p. 554, § 8. It is not clear from the application materials whether the mother’s request for a modification of custody was oral or written, but it is clear that the request was made after January 1, 2008. Thus, the amendment applies here.

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

JUN 17 2009

*I certify that the above is a true extract from
the minutes of 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, June 26, 2009

The Court of Appeals hereby passes the following order:

A09D0403. LAMAR COUNTY ET AL. v. E. T. CARLYLE COMPANY, INC.

Lamar County seeks an appeal from the superior court's order granting E. T. Carlyle Company's motion to enforce settlement. In the order, the superior court directed the Chairman of the Board of Commissioners of Lamar County to issue to Carlyle an administrative certificate of zoning compliance. The court also directed the chairman to issue a letter to the Environmental Protection Division, confirming the consistency of Carlyle's proposed landfill with local rules and ordinances. The question of mandamus jurisdiction is controlled "by the nature of the relief awarded." *Lamar County v. E.T. Carlyle Co.*, 277 Ga. 690, 691-92 (594 SE2d 335) (2004). See also *Settle v. McWhorter*, 203 Ga. 93 (45 SE2d 210) (1947). Because the Supreme Court has appellate jurisdiction in mandamus cases, the application is hereby **TRANSFERRED** to the Supreme Court for disposition. Ga. Const. of 1983, Art VI, Sec. 6, Par. III (5); OCGA § 9-6-28.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUN 26 2009**

*I certify that the above is a true extract from
the minutes of 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, JUNE 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0404

S & B ENGINEERS AND CONSTRUCTORS ET AL V. YVONNE BOLDEN

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

70034

CV090732



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 29 2009

*I certify that the above is a true extract from
the minutes of the 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 2, 2009

The Court of Appeals hereby passes the following order:

**A09D0405. THE HARTFORD UNDERWRITERS INSURANCE COMPANY
v. LAFARGE NORTH AMERICA, INC.**

The Hartford Underwriters Insurance Company has filed an application for discretionary appeal of an order setting aside a default judgment against a garnishee. Because an order setting aside a judgment leaves the case pending in the trial court, it is not a final judgment. See *Vangoosen v. Bohannon*, 236 Ga. App. 361, 363 (2) (511 SE2d 925) (1999); *Guy v. Roberson*, 214 Ga. App. 391, 392 (1) (448 SE2d 60) (1994). Such non-final orders must be appealed through the interlocutory appeal procedure set forth in OCGA § 5-6-34 (b). *Guy*, supra. Although appeals in garnishment cases are typically by discretionary application, see OCGA § 5-6-35 (a) (4), where both discretionary and interlocutory application procedures may apply, the applicant must follow the interlocutory appeal procedure and obtain a timely certificate of immediate review before filing an application. See *Scruggs v. Ga. Dept. of Human Resources*, 261 Ga. 587, 588 (1) (408 SE2d 103) (1991). Because Hartford failed to follow the interlocutory appeal procedure, this application is DISMISSED for lack of jurisdiction.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 02 2009

*I certify that the above is a true extract from
the minutes of 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, JULY 02, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0406

ACCESS AUTOMOTIVE GROUP, INC., LATONYA BIGGS, ET AL

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

92034

07A60196



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 02 2009

*I certify that the above is a true extract from
the minutes of the 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, JUNE 24, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0407

IN THE INTEREST OF: M. L. H. AND S. N. P. , CHILDREN (MOTHER)

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

97034

02908114



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 24 2009

*I certify that the above is a true extract from
the minutes of the 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 02, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0408
SHARON DEEN V. STAN KOCH ET AL

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

99034

2009CG0387



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

JUL 02 2009

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

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

W. L. Martinez

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

ATLANTA, JULY 09, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0409
COLLINS INDUSTRIES ET AL V. DAVID STARGEL

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

95035

09V696



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

JUL 09 2009

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

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

ATLANTA, JUNE 30, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0410
ANTHONY LAMONTE WEBB V. LESLIE LAYNE-WEBB

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.

96035

09A02683



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUN 30 2009**

*I certify that the above is a true extract from
the minutes of the 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 2, 2009

The Court of Appeals hereby passes the following order:

A09D0411. MULLINS v. THE STATE.

Robert A. Mullins was convicted of armed robbery, hijacking a motor vehicle, and kidnapping. On direct appeal, we affirmed his convictions and sentence. *Mullins v. State*, 280 Ga. App. 689 (634 SE2d 850) (2006). Mullins later filed a motion to vacate a void judgment, asserting that the evidence was insufficient to support his kidnapping conviction under the standard set forth in *Garza v. State*, 284 Ga. 696 (670 SE2d 73) (2008). The trial court denied Mullins's motion, and he now seeks discretionary review.¹ We lack jurisdiction for two reasons.

First, the application is untimely. A discretionary application must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). The order denying Mullins's motion was entered on March 23, 2009, but Mullins did not file this application until 51 days later, on May 13, 2009.

Second, although Mullins asserted in his motion that his kidnapping conviction is void, he alleged only insufficient evidence, which is not a ground that would void the conviction. See OCGA § 17-9-4; *Chester v. State*, 284 Ga. 162 (664 SE2d 220) (2008); *Shields v. State*, 276 Ga. 669 (581 SE2d 536) (2003). Mullins may only raise this claim in an extraordinary motion for new trial, petition for writ of habeas corpus, or motion in arrest of judgment. See *Chester*, supra.

Because we lack jurisdiction to consider this application, it is hereby DISMISSED.

¹ Mullins filed this application in the Supreme Court, which transferred it here.

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

JUL 02 2009

*I certify that the above is a true extract from
the minutes of 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 2, 2009

The Court of Appeals hereby passes the following order:

A09D0412. ANDREAS POLLMEIER v. GABRIELE POLLMEIER.

Andreas Pollmeier seeks discretionary review of an order of the superior court entered in a contempt action brought by the respondent involving the child support provisions of the parties' final divorce decree. 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). "[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).

As the underlying subject matter in this case involves child support, this Court lacks 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). Pollmeier's application is therefore ordered **TRANSFERRED** to the Supreme Court for disposition.¹

¹We observe that the case previously has been before the Supreme Court. Case No. S08O1534, dismissed June 10, 2008.



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

JUL 02 2009

*I certify that the above is a true extract from
the minutes of 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 08, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0413
WALTER J. BARNES, III 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.

93035

SU09CR0599



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta ' JUL 08 2009

*I certify that the above is a true extract from
the minutes of the 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 02, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0414
MEDICAL OFFICE MANAGEMENT ET AL V. PEGGY HARDEE

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

CE0900486



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 02 2009**

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

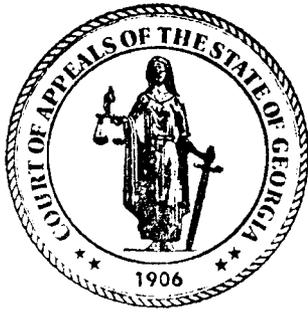
ATLANTA, June 30, 2009

The Court of Appeals hereby passes the following order:

A09D0415. ALVIN D. CLARK v. THE STATE.

Alvin D. Clark entered a plea of guilty to theft by shoplifting and a plea of nolo contendere to simple battery on March 2, 2009. He was sentenced to consecutive 12 month periods of confinement, with the sentence suspended upon service of 180 days, and with credit for time served since January 22, 2009. On May 2, 2009, Clark was arrested for new offenses, and the State moved to impose the suspended sentence. The trial court granted the motion.

Clark has filed an application for discretionary appeal, seeking to challenge the revocation of his suspended sentence. Although appeals from orders revoking probation are subject to the discretionary appeal procedures in OCGA § 5-6-35 (a) (5), those procedures do not apply to orders revoking a suspended sentence. Such orders are directly appealable. See *Serpentfoot v. State*, 241 Ga. App. 35 (524 SE2d 516) (1999) (direct appeal of a suspended sentence revocation); *White v. State*, 233 Ga. App. 873, 875 (505 SE2d 228) (1998) (noting that OCGA § 5-6-35 (a) (5) “on its face applies only to ‘orders revoking probation.’”). Accordingly, Clark’s application for discretionary appeal is hereby **GRANTED** pursuant to OCGA § 5-6-35 (j). Clark shall have ten (10) days from the date of this order to file a notice of appeal. The clerk of the state court is directed to include a copy of this order in the appeal record transmitted to this Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUN 30 2009

*I certify that the above is a true extract from
the minutes of 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 14, 2009

The Court of Appeals hereby passes the following order:

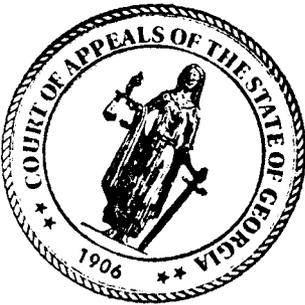
APPLICATION NO. A09D0416

IN THE INTEREST OF: L. M. M. & M. N. D. , 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.

70035

081935



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 2009

*I certify that the above is a true extract from
the minutes of the 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 08, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0417
WILLIAM ROBERT STALLWORTH V. THE STATE

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

71035

00R0361



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 08 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

A09D0418. WESLEY SCOTT WILLIAMS v. THE STATE.

On June 18, 2009, Wesley Scott Williams filed an application for discretionary review of an April 2, 2009 order denying his motion to dismiss on speedy trial grounds.¹ A defendant may directly appeal the pre-trial denial of a speedy trial claim. *Mayfield v. State*, 264 Ga. App. 551 (593 SE2d 851) (2003). Ordinarily, when a party applies for discretionary review of a directly appealable order, we grant the application under OCGA § 5-6-35 (j). To fall within this general rule, however, the application must be filed within 30 days of 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). Williams filed his application 77 days after entry of the order at issue here. Therefore, his application is untimely and must be **DISMISSED** for lack of jurisdiction.

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

JUL 15 2009

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

¹Williams first submitted his application to the Georgia Supreme Court, which transferred it to this Court. The application initially was not accepted for filing because it lacked the certificate of service required by Court of Appeals Rule 6 and the stamped "filed" copy of the trial court's order required by Court of Appeals Rule 31 (e).

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

ATLANTA, JULY 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0419
KAREN WICKER V. PATHFINDER FINANCIAL CORPORATION

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

97035

2009CV164077



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

JUL 13 2009

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

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

Clerk.

Will. L. McIntosh

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

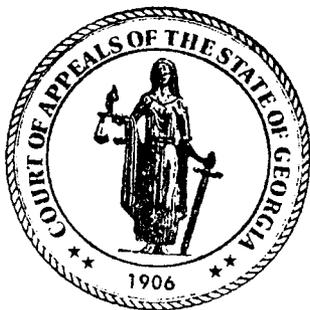
ATLANTA, AUGUST 11, 2009

The Court of Appeals passed the following order

Case No. A09D0419

KAREN WICKER V. PATHFINDER FINANCIAL CORPORATION

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 11, 2009*

*I certify that the above is a true extract from
the minutes of the 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 1, 2009

The Court of Appeals hereby passes the following order:

A09D0420. ARLANDA SMITH v. THE STATE.

Arlanda Smith has filed a timely application for discretionary review of the trial court's order denying his motion for discharge and acquittal based on speedy trial grounds. A defendant may directly appeal the pre-trial denial of a speedy trial claim. *Mayfield v. State*, 264 Ga. App. 551 (593 SE2d 851) (2003); *Callaway v. State*, 275 Ga. 332 (567 SE2d 13) (2002). Because the trial court's order is directly appealable, we hereby GRANT Smith's application for appeal. See OCGA § 5-6-35 (j). If he has not already filed one, Smith shall have ten days from the date of this order to file a notice of appeal in the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this court.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL -1 2009*

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

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

ATLANTA, JULY 07, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0421

YVONNE BOLDEN V. S & B ENGINEERS AND CONSTRUCTORS ET AL

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

70036

CV090732



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 07 2009

*I certify that the above is a true extract from
the minutes of the 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 8, 2009

The Court of Appeals hereby passes the following order:

A09D0422. ROBERTS v. THARP.

Gary Roberts has filed an application for discretionary appeal from an order of the juvenile court denying a motion to set aside a final judgment under OCGA § 9-11-60 (d). In his application, Roberts indicates that he is unsure whether jurisdiction is proper in this Court or the Supreme Court and that, "out of an abundance of caution," he has filed applications for discretionary appeal in both courts.

It is neither necessary nor useful to present identical applications to this Court and to the Supreme Court. Under these circumstances, we decline to address the merits of the application, including the preliminary matter of which appellate court has jurisdiction. We instead defer to the Supreme Court in this matter. Because this application is pending before the Supreme Court, Roberts' application to this Court is *DISMISSED* as superfluous. If the Supreme Court concludes that this Court has appellate jurisdiction over the application, we will address the application upon transfer.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUL 08 2009**

*I certify that the above is a true extract from
the minutes of 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 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0423

ROBERTO BAEZ ET AL V. BAMBI JOHNSON ET AL

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

96036

08CV42757



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 20 2009

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

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

Clerk.

Will. L. Martinez

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

ATLANTA, AUGUST 07, 2009

The Court of Appeals passed the following order

Case No. A09D0423

ROBERTO BAEZ ET AL V. BAMBI JOHNSON 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 07, 2009*

*I certify that the above is a true extract from
the minutes of the 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 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0424
KEY RISK INSURANCE CO. ET AL V. TIMOTHY HOBGOOD

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

98036

09CI278



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 13 2009

*I certify that the above is a true extract from
the minutes of the 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, JULY 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0425
LYLE INDUSTRIES ET AL V. TIMOTHY HOBGOOD

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

98037

09CI278



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 13 2009

*I certify that the above is a true extract from
the minutes of the 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 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0426
FRANK MAJOR V. MAJOR FORD ET AL

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

90036

NONE



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 2009

*I certify that the above is a true extract from
the minutes of the 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 21, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0427

KYLE D. BASS V. THE STATE

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

93036

99CR195



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 21 2009

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

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

Clerk.

Will. L. Martinez

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

ATLANTA, AUGUST 13, 2009

The Court of Appeals passed the following order

Case No. A09D0427

KYLE D. BASS 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 13, 2009*

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0428
TIFFANIE LOHR V. CHRISTOPHER LOHR

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

91036

09F010030



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 15 2009

*I certify that the above is a true extract from
the minutes of the 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 13, 2009

The Court of Appeals hereby passes the following order:

**A09D0429. MARK ONE CONSTRUCTION CO. v. THE BOARD OF PUBLIC
EDUCATION FOR THE CITY OF SAVANNAH et al.**

After the trial court granted summary judgment in favor of the defendants in this case, plaintiff Mark One Construction Co. filed an application for discretionary appeal. An order granting summary judgment may be appealed directly; no application is required. OCGA § 9-11-56 (h). This Court will grant a timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not already filed a notice of appeal in the trial court. This application, however, was not timely. A discretionary application must be filed within 30 days of the judgment or order sought to be appealed. OCGA § 5-6-35 (d). This application was filed 32 days after the entry of the trial court's summary judgment order. Moreover, the application appears to be superfluous, as Mark One states that it has already filed a notice of appeal in the trial court. For these reasons, this application is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 13 2009

*I certify that the above is a true extract from
the minutes of 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 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0430
LYNDON WILLIAMS V. STATE OF GEORGIA ET AL

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

71036

2008CV2604



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 13 2009

*I certify that the above is a true extract from
the minutes of the 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, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0431

TIFTON PAINT & SUPPLY COMPANY ET AL V. JACK E. CLIFTON

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.

92036

2009CX283



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 10 2009

*I certify that the above is a true extract from
the minutes of the 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 13, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0432
GREGORY CHRISTIAN V. THE STATE

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

97036

2005FE444



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

JUL 13 2009

*I certify that the above is a true extract from
the minutes of the 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 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0433
NATHALIE SUSSMAN V. KENNETH SUSSMAN

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.

99036

09A00494



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 2009

*I certify that the above is a true extract from
the minutes of the 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, July 9, 2009

The Court of Appeals hereby passes the following order:

**A09D0434. CASANOVA v. BOARD OF REGENTS OF THE GEORGIA
INSTITUTE OF TECHNOLOGY d/b/a GEORGIA TECH.**

John Casanova, a former student at Georgia Tech, filed suit against the university seeking, inter alia, a writ of mandamus. The trial court granted the university's motion for summary judgment, and Casanova filed an application for discretionary appeal. However, the Supreme Court has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus.¹ Accordingly, this case is hereby *TRANSFERRED* to the Supreme Court for disposition.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 09 2009

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

¹ See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006) (“[C]ases involving the grant or denial of mandamus are within the exclusive jurisdiction of [the Supreme] Court without regard to the underlying subject matter or the legal issues raised.”).

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

ATLANTA, JULY 20, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0435

JERRY BLAIR ET AL V. JERRY L. BISHOP ET AL

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

96037

2002V0341



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **JUL 20 2009**

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

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

Clerk.

Willi L. Mat...

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

ATLANTA, JULY 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0436

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

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

90037

08JV13



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 22 2009

*I certify that the above is a true extract from
the minutes of the 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 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0437

NORTH FULTON REGIONAL HOSPITAL ET AL V. CATHY PEARCE-
WILLIAMS

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

93037

2007CV142824



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 22 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

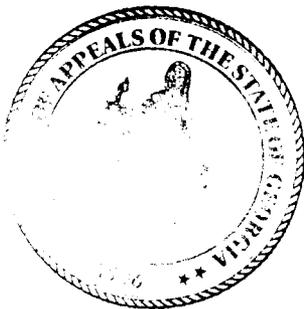
APPLICATION NO. A09D0438

MELVIN E. JONES V. THE STATE

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

91037

94CR4424



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 15 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0439

IN THE INTEREST OF: J. S. , A CHILD (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 JUVENILE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94037

12609J214



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 15 2009

*I certify that the above is a true extract from
the minutes of the 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 23, 2009

The Court of Appeals hereby passes the following order:

A09D0440. BOGGUS v. THE STATE.

In 1999, Kevin Boggus was indicted for rape. On May 13, 2009, Boggus filed an untitled pro se motion challenging the validity of the indictment against him. By order dated June 2, 2009, the trial court dismissed the motion on the basis that Boggus had already “filed a pro se Notice of Appeal on May 8, 2009 pertaining to this criminal action.” Boggus has now filed an application for discretionary appeal seeking to challenge this order.

Boggus’ application is plagued with several deficiencies. First, he has failed to include sufficient information for this Court to determine whether an application for discretionary appeal is the appropriate vehicle for seeking appellate review. It is unclear from his application whether Boggus has already been tried on the allegedly defective indictment. If Boggus’ motion was filed before trial, an appeal from the denial of a motion to quash would be interlocutory, and Boggus would be required to follow the interlocutory procedures set forth in OCGA § 5-6-34 (b). If Boggus’ motion was filed after trial, he generally would be required to file his motion either within 30 days from entry of judgment or within 30 days from the denial of a motion for new trial.¹

We note, however, that Boggus’ pro se motion also could be construed as a motion alleging a void conviction.² And a defendant, as a matter of right, can appeal

¹ See OCGA § 5-6-38 (a).

² See *Wright v. Hall*, 281 Ga. 318, 319 (638 SE2d 270) (2006) (conviction void if defendant can admit all allegations of indictment yet not be guilty of crime).

the denial of a petition to correct an allegedly void conviction or sentence at any time.³ That is not what occurred here, however. The trial court merely dismissed Boggus' motion because a notice of appeal had apparently already been filed.⁴ Boggus has failed to show that this ruling was error.⁵ In any event, Boggus has not provided sufficient information with his application to invoke this Court's jurisdiction. For the foregoing reasons, his application for discretionary appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 23 2009

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

³ *Chester v. State*, 284 Ga. 162 (1) (664 SE2d 220) (2008).

⁴ We note that if Boggus did, in fact, file a timely notice of appeal from a criminal conviction, it would render this application superfluous.

⁵ Pursuant to Court of Appeals Rule 31 (a), this Court will grant an application for discretionary appeal only when reversible error appears to exist or the establishment of precedent is desirable.

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

ATLANTA, JULY 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0441

TRIAD HEALTH MANAGEMENT OF GEORGIA, LLC., V. WILLIAM
M. FOSTER

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

71037

2009V069



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 22 2009

*I certify that the above is a true extract from
the minutes of the 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 12, 2009

The Court of Appeals passed the following order

Case No. A09D0441

TRIAD HEALTH MANAGEMENT OF GEORGIA, LLC., V. WILLIAM
M. FOSTER

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 12, 2009*

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S10C0023

Atlanta, November 9, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

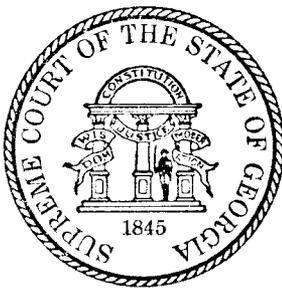
TRIAD HEALTH MANAGEMENT OF GEORGIA, LLC v. WILLIAM M. FOSTER

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Bill of Costs, \$300.00
Court of Appeals Case No. A09D0441

RECEIVED IN OFFICE
2009 DEC 11 AM 11:32
Clerk of the Supreme Court
of the State of Georgia



SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta December 10, 2009

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.

Theresa Ba, Clerk.

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

ATLANTA, JULY 31, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0442
JOSEPH J. FOSTER V. THE STATE

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

92037

05R10828



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 31 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0443

IN THE INTEREST OF: K. W. , A CHILD (FATHER)

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

97037

08JV01196



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **JUL 15 2009**

*I certify that the above is a true extract from
the minutes of the 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 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0444
IN THE INTEREST OF: J. K. , A CHILD (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 JUVENILE COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

99037

08CV646105



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 14 2009

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

A09D0445. CARLOS A. SKEETE v. MIKE MOON et al.

Carlos A. Skeete filed an action in superior court asserting multiple claims against multiple parties. On June 5, 2009, the superior court entered judgment for the only remaining defendants on the ground that Skeete failed to state a claim upon which relief could be granted. Attempting to appeal the June 5 order, Skeete has filed with this Court a notice of appeal that was also filed in superior court. He has directed this Court to docket the notice of appeal as an application for discretionary appeal.

The order dismissing Skeete's complaint is a final order within the meaning of OCGA § 5-6-34 (a) (1) and therefore may be directly appealed. Ordinarily, this Court will grant a timely discretionary application under OCGA § 5-6-35 (j) if the order is subject to direct appeal and the appellant has not timely filed a notice of appeal. In this case, it appears that Skeete has filed a timely notice of appeal. Thus, OCGA § 5-6-35 (j) does not apply, and this application is **DISMISSED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 15 2009

*I certify that the above is a true extract from
the minutes of 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 20, 2009

The Court of Appeals hereby passes the following order:

A09D0446. HIGHT v. THE STATE.

In 1974, a jury found Alfred Hight guilty of kidnapping, rape, and aggravated sodomy. Hight filed an extraordinary motion for new trial, which the trial court denied on April 30, 2009. On June 30, 2009, this Court received Hight's application for discretionary appeal.¹ We, however, lack jurisdiction.

A discretionary application must be filed within 30 days of entry of the order sought to be appealed.² Here, Hight filed his application 61 days after the order denying his extraordinary motion for new trial was entered. Thus, Hight's application was untimely, and this Court lacks jurisdiction to consider an untimely application.³ Accordingly, this application for discretionary appeal is hereby DISMISSED for lack of jurisdiction.

¹ Hight labeled his motion an "amendment to his original notice of appeal." Hight apparently filed his original appeal in the Supreme Court. Applications that are improperly filed in the Supreme Court are generally transferred to this Court for disposition. At this time, however, we have not received a transferred application from Hight.

² See OCGA § 5-6-35 (d).

³ See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 383) (1992).

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

JUL 20 2009

I certify that the above is a true extract from
the minutes of 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, AUGUST 07, 2009

The Court of Appeals passed the following order

Case No. A09D0446

ALFRED J. HIGHT 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 07, 2009*

*I certify that the above is a true extract from
the minutes of the 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 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0447
LOY ALPHEUS WINDHAM III V. THE STATE

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

98038

02CR51



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 22 2009

*I certify that the above is a true extract from
the minutes of the 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 30, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0448
TIKI TYWAN THURMOND 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.

90038

07CR1561



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

JUL 30 2009

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

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

Clerk.

Willie L. Martin

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

ATLANTA, JULY 22, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0449
JOHN H. BERGEN, JR., 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.

93038

2005SUCR683



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 22 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S10C0009

Atlanta, December 10, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

REEBAA CONSTRUCTION COMPANY, INC. v. CHANG SOP CHONG

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

All the Justices concur.

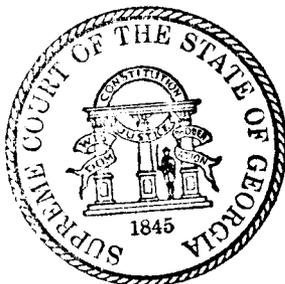
Bill of Costs, \$300.00
Court of Appeals Case No. A09D0450

RECEIVED IN OFFICE
2010 JAN -6 PM 3:00
CLERK'S OFFICE
OFFICE OF THE CLERK OF THE SUPREME COURT OF GEORGIA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta January 04, 2010

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.



Theresa S. Bann, Clerk.

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

ATLANTA, JULY 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0450
REEBAA CONSTRUCTION CO., V. CHANG SOP CHONG

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

91038

03C12398



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 27 2009

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

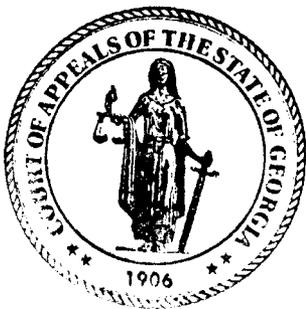
Court of Appeals of the State of Georgia

ATLANTA, July 15, 2009

The Court of Appeals hereby passes the following order:

A09D0451. PRISCILLA KING ET AL. v. CITIBANK ET AL.

On July 6, 2009, Priscilla King and Hussain Kareem filed an application for discretionary appeal from a writ of possession entered June 26, 2009. While OCGA § 5-6-35 (d) generally provides that an appeal taken by discretionary application must be filed within 30 days of the entry of the judgment complained of, OCGA § 44-7-56 provides specifically that a judgment in a statutory dispossessory proceeding may be appealable under Chapters 2, 3, 6, and 7 of Title 5 only if “any such appeal shall be filed within seven days of the date such judgment was entered” Since OCGA § 44-7-56 requires a judgment in a dispossessory action to be appealed, whether directly or by application, within seven days of the entry of the final judgment, this application is untimely and is therefore **DISMISSED** for lack of jurisdiction.



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

JUL 15 2009

*I certify that the above is a true extract from
the minutes of 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, September 9, 2009

The Court of Appeals hereby passes the following order:

A09D0451. PRISCILLA KING ET AL. v. CITIBANK ET AL.

By order entered July 15, 2009, this application was dismissed based on the conclusion that it was not timely filed. Applicants Priscilla King and Hussain Kareem filed a timely motion for reconsideration. We **GRANT** the motion for reconsideration and **VACATE** that July 15 order. Nevertheless, we once again **DISMISS** the application because the dismissal is proper on other grounds as set forth below.

Applicants seek review of the grant of a writ of possession. They previously filed a direct appeal from an order requiring them to pay rent into the registry of the court pending a jury trial. That appeal was docketed in this court as Appeal No. A09A0919. We dismissed that appeal due to the applicants' failure to follow the interlocutory appeal procedure as required. On January 14, 2009, after that appeal was docketed in this court, the state court entered a final order and judgment, granting the respondent a writ of possession and requiring the applicants to pay rent into the court registry, should they choose to appeal. There is no indication that the applicants timely appealed the January 14 order to this court. Instead, they filed motions in the state court challenging the order.

On June 26, 2009, the state court issued a writ of possession to the respondent under OCGA § 44-7-54 (b) because of the applicants' failure to pay rent into the court registry. It is from the entry of this second writ of possession that the applicants now seek a discretionary appeal.

Because the applicants filed no timely appeal from the original writ of possession, that writ of possession has res judicata effect. See *Lewis v. Carscallen*, 274 Ga. App. 711 (618 SE2d 618) (2005). "[T]he judgment unappealed from became

final and is now res judicata as to the same issues sought to be raised in the present case.” *Nally v. Bartow County Grand Jurors*, 280 Ga. 790, 791 (633 SE2d 337) (2006) (Citation and punctuation omitted). Consequently, the applicants’ right to remain on the premises has ended. Since they no longer have a present right of possession under any provision of Chapter 7 of Title 44, any question regarding the propriety of the second writ of possession issued pursuant to OCGA § 44-7-54 has been rendered moot. Accordingly, we **DISMISS AS MOOT** this application for appeal. Accord *Franklin v. Shackelford*, 174 Ga. App. 520 (330 SE2d 449) (1985).



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

SEP 09 2009

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

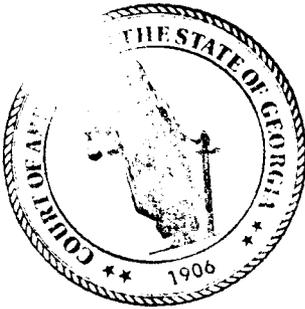
SEPTEMBER 30, 2009

The Court of Appeals passed the following order

Case No. A09D0451

PRISCILLA KING ET AL V. CITIBANK, 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 SEP 30, 2009*

*I certify that the above is a true extract from
the minutes of the 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, AUGUST 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0452
GINA CONTEH V. APPOINTING AUTHORITY ET AL

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

70038

2008CV160211



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 04 2009**

*I certify that the above is a true extract from
the minutes of the 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 15, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0453
TERRY LYNN MILLER 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.

71038

06CR118



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 15 2009

*I certify that the above is a true extract from
the minutes of the 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 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0454

IN THE INTEREST OF: C. E. , A CHILD (MOTHER)

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

92038

11509739



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 04 2009

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

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

Clerk.

Will L. Mat... [Signature]

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

ATLANTA, JULY 24, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0455
NEAL NODVIN ET AL V. JOEL AROGETI 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.

97038

NONE



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

JUL 24 2009

*I certify that the above is a true extract from
the minutes of the 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 31, 2009

The Court of Appeals hereby passes the following order:

A09D0456. MABRY DAWSON v. AUTO-OWNERS INSURANCE CO.

Mabry Dawson filed this discretionary application seeking to appeal the trial court's order denying his motion to set aside a judgment. The trial court's order was entered on June 4, 2009, but Dawson did not file his application until 33 days later, on July 7, 2009.¹ An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). In this case, the thirtieth day after entry of the trial court's order fell on Saturday, July 4, so Dawson's application was due the following Monday, July 6. See OCGA § 1-3-1 (d) (3). Because Dawson did not file his application within the 30-day period, we lack jurisdiction to consider it, and it is therefore DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).



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

JUL 31 2009

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

¹ Although Dawson attempted to file his application on July 6, the application could not be accepted for filing at that time because it did not contain a certificate showing that service had been made on opposing counsel. See Court of Appeals Rule 6.

Court of Appeals of the State of Georgia

ATLANTA, August 26, 2009

The Court of Appeals hereby passes the following order:

A09D0456. MABRY DAWSON v. AUTO-OWNERS INSURANCE COMPANY.

Mabry Dawson seeks reconsideration of this Court's order dismissing his discretionary application as untimely. Because Dawson sought to appeal a state court order that was entered on June 4, 2009, his deadline for filing a discretionary application was July 6, 2009.¹ Dawson submitted his application on July 6, but it was not filed until the following day because it did not appear to contain a certificate of service as required by Court of Appeals Rule 6. In his motion for reconsideration, however, Dawson points out that the signature page of his application bore a small notation indicating that service had been made on opposing counsel. Thus, Dawson's application should have been deemed timely filed on July 6. The Court therefore GRANTS Dawson's motion for reconsideration and REINSTATES his application for discretionary appeal. Upon review of the application on its merits, however, the Court DENIES the application.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 26 2009**

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

¹ The thirtieth day after entry of the state court order fell on Saturday, July 4, 2009. Thus, Dawson's application was due the following Monday, July 6, 2009. See OCGA § 1-3-1 (d) (3).

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

ATLANTA, JULY 29, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0457
GREG DOZIER V. JOSEPH BRETT HANES

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.

95039

2009V0783



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL 29 2009

*I certify that the above is a true extract from
the minutes of the 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 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0458
CHOICEPOINT SERVICES INC., V. BART L. GRAHAM 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.

96039

2007CV144440



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 04 2009

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

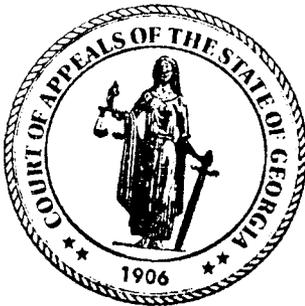
Court of Appeals of the State of Georgia

ATLANTA, July 30, 2009

The Court of Appeals hereby passes the following order:

A09D0459. KENNY WALKER v. THE STATE.

Kenny Walker, whose aggravated assault and burglary convictions were affirmed in an unpublished opinion, see *Walker v. State*, 271 Ga. App. XXVI (Appeal No. A04A1911, decided December 29, 2004), now seeks to appeal the denial of his extraordinary motion for new trial. Walker included a copy of the trial court's order with his application, but it was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e). On July 10, 2009, this Court ordered Walker to supplement his application with a stamped "filed" copy of the order sought to be appealed within 10 days or the application would be dismissed. No stamped "filed" copy of the order has been filed within the time allowed. Therefore, this application is DISMISSED.



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

JUL 30 2009

*I certify that the above is a true extract from
the minutes of 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, July 23, 2009

The Court of Appeals hereby passes the following order:

A09D0460. WILLIAM L. COBB, JR. v. GEORGIA DEPARTMENT OF CORRECTIONS.

William L. Cobb, Jr. filed this discretionary application to appeal an order denying his request to proceed in forma pauperis. The order was entered on March 26, 2009. Cobb filed his application on July 1, 2009. A discretionary application must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35 (d). Cobb submitted his application 97 days after entry of the order. Although he filed a motion for reconsideration, such motion does not toll the time for filing an application to appeal. *Harris v. State*, 278 Ga. 280 n. 3 (600 SE2d 592) (2004). For these reasons, Cobb's application for discretionary appeal is **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 23 2009

*I certify that the above is a true extract from
the minutes of 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 22, 2009

The Court of Appeals hereby passes the following order:

A09D0461. MERILIEN v. SMITH GAMBRELL & RUSSELL, LLC et al.

On July 9, 2009, Jean Merilien filed an application for discretionary appeal seeking to appeal a May 27, 2009 order of the trial court dismissing his civil complaint. An application for discretionary appeal must be filed within 30 days of the order appealed.¹ Because Merilien filed his application 43 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is DISMISSED.²

¹ OCGA § 5-6-35 (d).

² Moreover, we note that the trial court's order did not, in fact, dismiss Merilien's complaint, but gave Merilien 30 days from the date of the order in which to perfect service against the defendants. Thus, the order Merilien seeks to appeal is not final. See *Thomas v. Douglas County*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995) ("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.") Because issues remain pending below, Merilien was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. Merilien's failure to do so provides another basis for the dismissal of this application.



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

JUL 22 2009

*I certify that the above is a true extract from
the minutes of 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 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0462

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

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

91039

0900349



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 27 2009

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

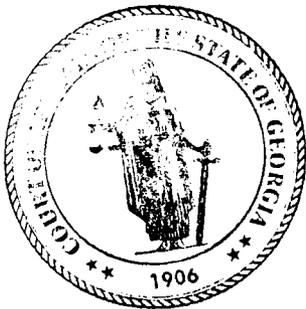
ATLANTA,

July 20, 2009

The Court of Appeals hereby passes the following order:

A09D0463. GREGORY F. BROWN v. THE STATE.

Gregory F. Brown was convicted of voluntary manslaughter. On direct appeal, we affirmed his conviction. *Brown v. State*, 236 Ga. App. 166 (511 SE2d 276) (1999). In June 2008, Brown filed a motion in arrest of void judgment. The trial court denied Brown's motion, and he now seeks discretionary review.¹ We lack jurisdiction. A discretionary application must be filed within 30 days of entry of the order sought to be appealed. OCGA § 5-6-35(d). The order denying Brown's motion was entered on December 4, 2008, but Brown did not file this application until 179 days later, on June 1, 2009.² Because we lack jurisdiction to consider this application, it is hereby ***DISMISSED***.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta JUL 20 2009

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

¹Brown filed this application in the Georgia Supreme Court, which transferred it here.

²Brown asserts that he filed a notice of appeal to this Court from the trial court's order, but the direct appeal has not yet been docketed here. In addition to challenging his conviction and sentence, he challenges the superior court's delay in transmitting the appeal to this Court.

Court of Appeals of the State of Georgia

ATLANTA, August 20, 2009

The Court of Appeals hereby passes the following order:

A09D0463. GREGORY F. BROWN v. THE STATE.

On August 13, 2009, Gregory F. Brown filed a motion for reconsideration of this court's July 20, 2009 order dismissing his application for discretionary appeal.¹ Court of Appeals Rule 37 (b) requires motions for reconsideration to be filed within ten days of the order or judgment for which reconsideration is sought. Brown's motion for reconsideration, filed 24 days after the dismissal of his application, is thus untimely and is **DISMISSED**.



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

AUG 20 2009

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

¹Brown's motion was originally not accepted for filing because he failed to include a certificate of service as required by Court of Appeals Rule 6.

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

ATLANTA, AUGUST 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0464

DAVID BEARDEN V. THE STATE

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

70039

009418442

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 04 2009

*I certify that the above is a true extract from
the minutes of the 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 06, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0465
LATIFU BROOKS V. WARREN SUTCLIFFE

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

71039

09C07028



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 06 2009**

*I certify that the above is a true extract from
the minutes of the 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 04, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0466
AMANDA LEA YOUNG V. LESTER WILLIAM TALLEY, III

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

92039

07B903



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

AUG 04 2009

*I certify that the above is a true extract from
the minutes of the 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: **AUG 05 2009**

A09D0467. FDB ROSWELL, LLC v. MAYOR AND COUNCIL OF THE CITY OF ROSWELL, et al.

In accordance with a City of Roswell ordinance, FDB Roswell, LLC, applied to the Mayor and Roswell City Council for small tract status of 1.97 acres in Roswell, Georgia. At the hearing, FDB Roswell argued, inter alia, that the denial of its petition would be unconstitutional. The application was nonetheless denied, and FDB Roswell petitioned for a writ of certiorari in the superior court, asserting that the Roswell ordinance was “unconstitutionally infirm.” The trial court affirmed the City’s decision to deny the application. FDB Roswell filed a motion for new trial, which the superior court denied. FDB Roswell has now filed an application for discretionary appeal in this Court seeking review of the trial court’s ruling.

The Supreme Court has exclusive jurisdiction over all cases involving construction of the Constitution of the State of Georgia and of the United States and all cases in which the constitutionality of a law, ordinance, or constitutional provision has been called into question.¹ This Court has no jurisdiction to determine the constitutionality of an ordinance unless it has been held to be constitutional on the same grounds raised in a prior appeal or the question involves the application of unquestioned and unambiguous provisions of the Constitution.² Here, it does not

¹ See Ga. Const. of 1983, Art. VI, Sec. VI, Para. II (1); *Atlanta Independent School System v. Lane*, 266 Ga. 657 (1) (469 SE2d 22) (1996).

² See *City of Decatur v. DeKalb County*, 284 Ga. 434, 436-437 (2) (668 SE2d 247) (2008); *Braden v. Bell*, 222 Ga. App. 144, 146 (1) (473 SE2d 523) (1996).

appear that the constitutionality of the Roswell ordinance has been passed upon. Accordingly, jurisdiction is proper in the Supreme Court.³ This case is therefore transferred to the Supreme Court for disposition.



~~August 5, 2009~~
Court of Appeals of the State of Georgia
Clerk's Office, Atlanta

AUG 05 2009

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

³ See *City of Decatur*, supra.

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

ATLANTA, JULY 31, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0468

IN THE INTEREST OF: A. J. G. , K. R. G. , B. E. G. , AND
D. L. G. , CHILDREN (MOTHER)

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

99039

09JV04034044



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

JUL 31 2009

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

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

Clerk.

Will L. Matz

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

ATLANTA, AUGUST 13, 2009

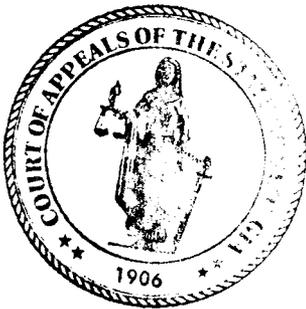
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0469
COBB EMC/GEMC ET AL V. MATTHEW MCCLENDON

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

95040

0912364



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 13 2009

*I certify that the above is a true extract from
the minutes of the 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 7, 2009

The Court of Appeals hereby passes the following order:

A09D0470. DANIEL A. SPOTTSVILLE v. DAVID FRAZIER ET AL.

On July 16, 2009, Daniel A. Spottsville filed this application for discretionary appeal from a June 1, 2009 order denying his motion to set aside. To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Spottsville filed his application 45 days after entry of the order he seeks to appeal.¹ His application is therefore untimely and is **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 07 2009

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

¹Spottsville's original submission was not accepted for filing because it lacked a filing fee or sufficient pauper's affidavit as required by OCGA § 5-6-4 and Court of Appeals Rules 5, 31 (d).

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

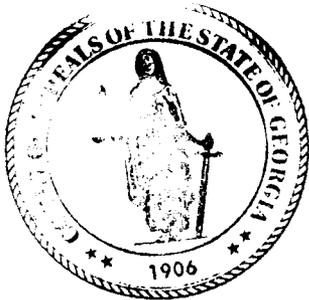
ATLANTA, AUGUST 26, 2009

The Court of Appeals passed the following order

Case No. A09D0470

DANIEL A. SPOTTSVILLE V. DAVID FRAZIER 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 26, 2009*

*I certify that the above is a true extract from
the minutes of the 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 10, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0471

ANTHONY SCOTT TAYLOR V. DAWN DIANE LUNTSFORD ET AL

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

98040

07C13243



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 10 2009**

*I certify that the above is a true extract from
the minutes of the 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 11, 2009

The Court of Appeals hereby passes the following order:

A09D0472. Jones v. Fulton County Government et al.

Phillip A. Jones, Sr. has filed an application for discretionary appeal, requesting permission to appeal the trial court's order denying his motion to proceed in forma pauperis in this case. Jones, however, has provided no explanation as to how this matter is subject to the discretionary appeal procedures in OCGA § 5-6-35. Nothing in the application demonstrates that the case falls within the categories of cases requiring a discretionary application. Moreover, the trial court's order is not a final judgment, and the materials submitted by Jones do not demonstrate that the matter is otherwise subject to a direct appeal. Accordingly, Jones was required to follow the interlocutory appeal procedures in OCGA § 5-6-34 (b) and obtain a timely certificate of immediate review. His failure to do so deprives this Court of jurisdiction over his application, which is hereby DISMISSED. See *Pace Constr. Corp. v. Northpark Associates*, 215 Ga. App. 438, 439-440 (215 SE2d 438) (1994).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 11 2009

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

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

Willie L. Matz, Clerk.

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

ATLANTA, AUGUST 12, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0473

SULLIVAN'S ADMINISTRATIVE MANAGERS ET AL V. LINDA B.
JOHNSON

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

93040

CV091367



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 12 2009

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

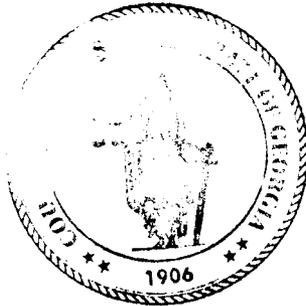
Court of Appeals of the State of Georgia

ATLANTA, August 7, 2009

The Court of Appeals hereby passes the following order:

A09D0474. CURTIS L. FRANCIS v. THE STATE.

On July 24, 2009, Curtis L. Francis filed this application for discretionary appeal, challenging a June 16, 2009 order revoking his probation.¹ To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Francis filed his application 38 days after entry of the order he seeks to appeal. His application is therefore untimely and is **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 07 2009

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

¹Francis's original submission was not accepted for filing because it lacked a filing fee or sufficient pauper's affidavit as required by OCGA § 5-6-4 and Court of Appeals Rules 5, 31 (d).

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

ATLANTA, AUGUST 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0475
LATIFU BROOKS V. MARTIN FAVERO ET AL

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

94040

09C08571

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 14 2009**

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



SUPREME COURT OF GEORGIA

Case No. S09D1581

A09D0476

Atlanta June 29, 2009

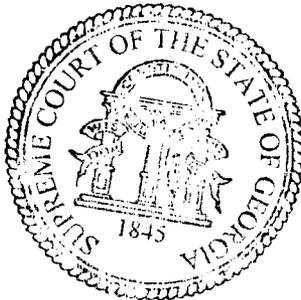
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

THOMAS E. COTTON et al v. DONNA B. GENSLER et al.

From the Superior Court of Fulton County

Applicants seek to appeal the order of the trial court dismissing their notice of appeal. However, nothing in the case invokes this Court's subject matter jurisdiction as any constitutional issues raised would require the application of well-settled constitutional principles to the facts of the case, see Zepp v. Mayor and Council of the City of Athens, 255 Ga. 449 (339 SE2d 576) (1986), and although the complaint sought equitable relief, the grant or denial of equitable relief is not a substantive issue on appeal, Electronic Data Systems Corp. v. Heinemann, 268 Ga. 755, 756 (493 SE2d 132) (1997). Therefore, the Court hereby directs that the appeal be 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.

Jeanette Lidson, Deputy Clerk

FILED IN OFFICE
JUL 27 2009
CLERK, COURT OF
APPEALS OF GEORGIA

Court of Appeals of the State of Georgia

ATLANTA, August 10, 2009

The Court of Appeals hereby passes the following order:

A09D0476. Cotton et al. v. Gensler et al.

After Thomas and Gloria Cotton filed suit against various defendants in Fulton County Superior Court, the trial court entered an order transferring venue to Morgan County. The transfer order was not a final judgment, as the case remained pending below, albeit in a different court. See *Griffin v. Georgia Bd. of Dentistry*, 175 Ga. App. 533 (333 SE2d 647) (1985). Nevertheless, the Cottons filed a notice of direct appeal, without obtaining a certificate of immediate review or following the interlocutory appeal procedures in OCGA § 5-6-34 (b). The Cottons also asked the trial court to reconsider its order transferring venue. When the trial court denied the motion for reconsideration, the Cottons filed a notice of direct appeal from that denial.

On May 15, 2009, the trial court dismissed the two notices of appeal based on the Cottons' failure to follow the interlocutory appeal procedures. As noted by the trial court, the orders underlying both notices of appeal were interlocutory and not subject to a direct appeal. See *id.*; *Mayor & Alderman of Savannah v. Norman J. Bass Constr. Co.*, 264 Ga. 16, 17 (1) (441 SE2d 63) (1994). Thomas Cotton now seeks discretionary review of the order dismissing the notices of appeal.¹

As our Supreme Court recently explained, "a trial court's order dismissing an improperly filed direct appeal should be considered an interlocutory order and is not subject to a direct appeal." *American Medical Security Group, Inc. v. Parker*, 284 Ga. 102, 103 (2) (663 SE2d 697) (2008). The trial court dismissed the Cottons' notices

¹ Gloria Cotton did not join in Thomas Cotton's application for discretionary appeal.

of appeal after correctly determining that the orders at issue were not directly appealable. Any challenge to the dismissal itself, therefore, was interlocutory, and the appeal of that dismissal was subject to the interlocutory appeal procedures. *Id.*; see also *Rolleston v. Cherry*, 233 Ga. App. 295, 296 (504 SE2d 504) (1998).

Although Thomas Cotton filed an application for appeal in this case, he failed to follow the requirements for seeking interlocutory review. In particular, he did not secure a certificate of immediate review signed by the trial court, a necessary precondition for an interlocutory appeal. See OCGA § 5-6-34 (b); *Bailey v. Bailey*, 266 Ga. 832, 832-833 (471 SE2d 213) (1996). Accordingly, we lack jurisdiction over his application, which is hereby DISMISSED. See *id.*



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

AUG 10 2009

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

September 11, 2009

ATLANTA,

The Court of Appeals hereby passes the following order:

A09D0476. Cotton et al. v. Gensler et al.

Thomas Cotton has filed a motion for reconsideration, asking us to reconsider our August 10, 2009 order dismissing his application for appeal. As explained in our order, Cotton was required – but failed – to obtain a certificate of immediate review under OCGA § 5-6-34 (b) because the lower court's ruling was interlocutory.

In his motion for reconsideration, Cotton argues that the interlocutory appeal procedures in OCGA § 5-6-34 (b), and particularly the certificate of immediate review requirement, are unconstitutional. In *Fife v. Johnston*, 225 Ga. 447 (169 SE2d 167) (1969), our Supreme Court upheld the constitutionality of OCGA § 5-6-34 (b). Accordingly, Cotton's argument lacks merit, and his motion for reconsideration is hereby DENIED. The Respondents' pending motion for sanctions and penalties against Cotton is also DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **SEP 11 2009**

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

Remittitur, Case No. S10C0181

Atlanta, January 25, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

THOMAS E. COTTON v. DONNA BRYANS GENSLER et al.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby dismissed.

All the Justices concur.

Lower Court Case No.

2006CV121138

Court of Appeals Case No.

A09D0476

RECEIVED IN OFFICE
2010 MAR 16 PM 1:04
CLERK/REGISTRAR
COURT OF APPEALS, GA

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta March 04, 2010

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.

Pamela M. Smith, Deputy Clerk

Court of Appeals of the State of Georgia

ATLANTA, August 11, 2009

The Court of Appeals hereby passes the following order:

**A09D0477. CORNELIUS MARTIN, JR. v. GEORGIA BOARD OF PARDONS
& PAROLES, et al.**

Cornelius Martin, Jr. filed a petition for writ of mandamus seeking an order compelling the Georgia Board of Pardons and Paroles to release him from incarceration. After the trial court denied the petition, Martin filed an application for discretionary appeal in this Court. The Supreme Court has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); see also *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006). This application is therefore *TRANSFERRED* to the Supreme Court.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 11 2009**

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

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

William L. Martin, Jr., Clerk.

Court of Appeals of the State of Georgia

ATLANTA, August 7, 2009

The Court of Appeals hereby passes the following order:

A09D0478. ROSHEA MILLSAP v. INTERNATIONAL PORTFOLIO, INC.

Roshea Millsap filed this application for discretionary appeal from a superior court order denying her motion for summary judgment/motion to dismiss. Millsap was required to follow the interlocutory appeal procedures of OCGA § 5-6-34 (b) to appeal such order. See *Pace Constr. Corp. v. Northpark Assoc.*, 215 Ga. App. 438, 439 (450 SE2d 828) (1994). Because Millsap failed to comply with the requisite interlocutory procedures, her application is premature and is hereby **DISMISSED**.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 07 2009**

*I certify that the above is a true extract from
the minutes of 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, AUGUST 14, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0479

IN THE INTEREST OF: A. R. , V. R. AND S. R. , 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.

97040

05JV387

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta AUG 14 2009

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

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

ATLANTA, AUGUST 18, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0480

CHARLES MILLER V. GEORGIA DEPARTMENT OF COMMUNITY HEALTH

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

99040

2009CV163394



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 18 2009

*I certify that the above is a true extract from
the minutes of the 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, SEPTEMBER 09, 2009

The Court of Appeals passed the following order

Case No. A09D0480

CHARLES MILLER V. GEORGIA DEPARTMENT OF COMMUNITY HEALTH

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 09, 2009

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

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

Clerk.

W. L. Martin

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

ATLANTA, AUGUST 19, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0481
WIRELESS SOUTHEAST D/B/A VERIZON WIRELESS ET AL
V. PATRICIA TATE

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

95041

2009CV167843



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 19 2009

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

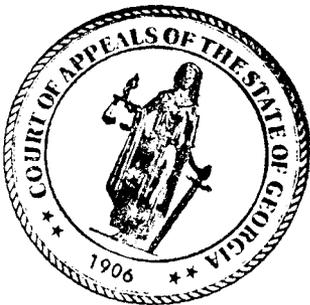
SEPTEMBER 09, 2009

The Court of Appeals passed the following order

Case No. A09D0481

WIRELESS SOUTHEAST D/B/A VERIZON WIRELESS ET AL
V. PATRICIA TATE

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 09, 2009

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

SUPREME COURT OF GEORGIA

Remittitur, Case No. S10C0159

Atlanta, January 25, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

WIRELESS SOUTHEAST D/B/A, VERIZON WIRELESS et al. v.

Upon consideration of the petition for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied.

All the Justices concur.

Lower Court Case No.
2009CV167843
Court of Appeals Case No.
A09D0481

RECEIVED IN OFFICE
2010 MAR -3 PM 1:09
Clerk's Office
of the Supreme Court
of Georgia

MAR - 3 2010

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta February 26, 2010

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.

Pamela M. Smith, Deputy Clerk



SUPREME COURT OF GEORGIA
Case No. S10C0159

Atlanta, January 25, 2010

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

**WIRELESS SOUTHEAST D/B/A, VERIZON WIRELESS et al. v.
PATRICIA TATE**

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

Court of Appeals Case No. A09D0481

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from 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.

Theresa A. Bama, Clerk

Court of Appeals of the State of Georgia

ATLANTA, August 19, 2009

The Court of Appeals hereby passes the following order:

A09D0482. ALLEN GOLDEN v. AMERICAN STAFFING ET AL.

On July 27, 2009, Allen Golden filed this discretionary application from a June 18, 2009 superior court order affirming a decision of the State Department of Labor that disqualified Golden from receiving unemployment compensation benefits. To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Golden filed his application 39 days after entry of the order he seeks to appeal. His application is therefore untimely and is **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 19 2009

*I certify that the above is a true extract from
the minutes of 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, AUGUST 19, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0483

ERIC KIMBROUGH V. THE STATE

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

98041

04SC19167



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 19 2009

*I certify that the above is a true extract from
the minutes of the 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 18, 2009

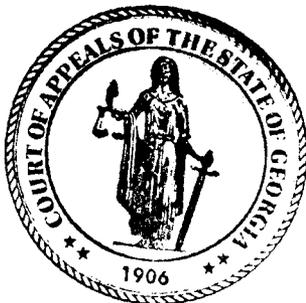
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0484
JOHNNY ALLEN MARTIN V. STATE OF GEORGIA

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

90041

09CV03331



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 18 2009

*I certify that the above is a true extract from
the minutes of the 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, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0485

GGNSC AUGUSTA WINDERMERE LLC ET AL V. CHIQUITA SMALLS

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

93041

2008006693



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 28 2009

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

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

Clerk.

Will. L. Martinez

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

ATLANTA, AUGUST 19, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0486

GEORGIA DEPARTMENT OF TRANSPORTATION ET AL V. LINDA
L. HUNNICUTT

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.

91041

2009CV168724



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 19 2009

*I certify that the above is a true extract from
the minutes of the 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 20, 2009

The Court of Appeals hereby passes the following order:

A09D0487. M & S REMODELING et al. v. CESAR MARROQUIN.

On July 2, 2009, the superior court affirmed a decision of the Appellate Division of the State Board of Workers' Compensation finding that Cesar Marroquin had suffered a catastrophic injury. M & S Remodeling and its insurer submitted an application for discretionary appeal on July 31, 2009. The application was not accepted for filing, however, because it did not include the requisite filing fee.¹ On August 5, 2009, the filing fee was received by this Court, and the application was accepted and docketed.

To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed.² This requirement – along with the requirement that filing fees be paid – is jurisdictional.³ M & S Remodeling's application was filed 34 days after the order it seeks to appeal. This untimely application for appeal is therefore *DISMISSED* for lack of jurisdiction.

¹ See OCGA § 5-6-4 (“The clerk is prohibited from receiving the application for appeal or the brief of the appellant unless the costs have been paid or a sufficient affidavit of indigence is filed and contained in the record.”); see also Court of Appeals Rule 31 (d).

² OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

³ See *Carson v. Automobile Financing*, 96 Ga. App. 336 (99 SE2d 903) (1957); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989).



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **AUG 20 2009**

*I certify that the above is a true extract from
the minutes of 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, November 6, 2009

The Court of Appeals hereby passes the following order:

A09D0487. M & S Remodeling et al. v. Marroquin.

M & S Remodeling et al. sought discretionary review of an award of the State Board of Workers' Compensation finding that Cesar Marroquin had suffered a catastrophic injury. Because the application was untimely, this Court dismissed the application for lack of jurisdiction. See OCGA § 5-6-4; *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989); *Carson v. Automobile Financing*, 96 Ga. App. 336 (1) (99 SE2d 903) (1957). M & S Remodeling then filed a petition for certiorari in the Supreme Court. After the parties reached a settlement agreement, M & S Remodeling moved to withdraw the petition. Rather than granting that motion, the Supreme Court granted the petition for certiorari, vacated this Court's order, and remanded the application to this Court with direction that the case be further remanded in accordance with *North Bros. Insulation v. Barron*, 169 Ga. App. 657 (314 SE2d 489) (1984).

In accordance with the Supreme Court's direction, this Court hereby REINSTATES this application. Pursuant to *North Bros.*, supra, we REVERSE the judgment of the superior court and REMAND to the State Board of Workers Compensation in order for the settlement to be approved. See OCGA § 34-9-15.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 06 2009**

*I certify that the above is a true extract from
the minutes of 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, AUGUST 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0488
DONALD C. LONG V. MOHAWK INDUSTRIES, INC

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

70041

09CV54432



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

AUG 27 2009

*I certify that the above is a true extract from
the minutes of the 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 25, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0489
GMC GROUP, INC. V. HARSCO CORPORATION

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.

71041

0713001

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 25 2009

*I certify that the above is a true extract from
the minutes of the 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 20, 2009

The Court of Appeals hereby passes the following order:

A09D0490. RENZO WHITFIELD v. THE STATE.

Renzo Whitfield has applied for discretionary review of an order denying his motion to modify his sentence. The order that Whitfield seeks to appeal was entered on May 4, 2009, but Whitfield did not file this application until 92 days later, on August 4, 2009.¹ An application for discretionary appeal must be filed within 30 days of the order sought to be appealed. OCGA § 5-6-35 (d). Because this application is untimely, we lack jurisdiction to consider it. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Therefore, this application is **DISMISSED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 20 2009**

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

¹Whitfield's original submission was not accepted for filing because it lacked a filing fee or sufficient pauper's affidavit as required by OCGA § 5-6-4 and Court of Appeals Rules 5, 31 (d).

Court of Appeals of the State of Georgia

ATLANTA, August 21, 2009

The Court of Appeals hereby passes the following order:

A09D0491. BYRD v. EAST CENTRAL REGIONAL et al.

Claimant Phyllis Byrd seeks discretionary review of the award of the appellate division of the State Board of Workers' Compensation denying her claim for benefits. Byrd appealed to the superior court, which did not issue an order. Thus, the award of the appellate division was affirmed by operation of law. See OCGA § 34-9-105 (b). Byrd then filed an application for discretionary appeal in this Court. Byrd, however, has provided insufficient information to invoke this Court's jurisdiction.

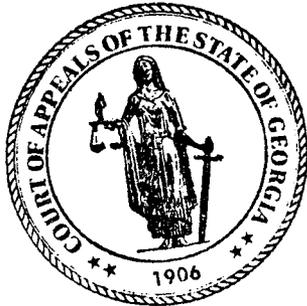
OCGA § 34-9-105 (b) provides, in relevant part, that a party may appeal to the superior court within twenty days from the date of the appellate division's award. If that

court does not hear the case within 60 days of the date of docketing in the superior court, the decision of the board shall be considered affirmed by operation of law unless a hearing originally scheduled to be heard within the 60 days has been continued to a date certain by order of the court. In the event a hearing is held later than 60 days after the date of docketing in the superior court because same has been continued to a date certain by order of the court, the decision of the board shall be considered affirmed by operation of law if no order of the court disposing of the issues on appeal has been entered within 20 days after the date of the continued hearing.

Here, the appellate division issued its award on April 21, 2009. Although Byrd apparently appealed to superior court, she has failed to include with her application

any document indicating when such appeal was docketed. Thus, we are unable to ascertain whether it was docketed within twenty days as required by statute.

In order for this Court to have jurisdiction, applications must be timely filed. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Where, as here, we are unable to determine whether jurisdictional requirements have been met, we are unable to assume jurisdiction. Accordingly, this application for discretionary appeal is hereby DISMISSED. See, e. g., *Coronet Carpets v. Reynolds*, 199 Ga. App. 383 (405 SE2d 103) (1991); *Synthetic Industries v. Camp*, 196 Ga. App. 637, 638 (396 SE2d 518) (1990).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 21 2009

*I certify that the above is a true extract from
the minutes of 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, September 15, 2009

The Court of Appeals hereby passes the following order:

A09D0491. BYRD v. EAST CENTRAL REGIONAL et al.

Workers' compensation claimant Phyllis Byrd has filed a motion for reconsideration of this Court's August 21, 2009 dismissal of her application for discretionary appeal. We dismissed the application based upon Byrd's failure to include any document establishing when her superior court appeal was docketed, which was required for us to ascertain jurisdiction.¹ On motion for reconsideration, Byrd has included the requisite document demonstrating that her application was timely filed.

Accordingly, Byrd's motion for reconsideration is GRANTED. The Court's August 21, 2009 dismissal order is VACATED, and Byrd's discretionary application is REINSTATED. Upon consideration of the application for discretionary appeal on the merits, however, the application is DENIED.

¹ See OCGA § 34-9-105 (b) (time requirement for filing an appeal in superior court); OCGA § 5-6-35 (d) (time requirement for filing application for discretionary appeal); *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989) (time requirements in OCGA § 5-6-35 (d) are jurisdictional). Although Byrd contends in her motion for reconsideration that "issues of jurisdiction and timely appeal were not at issue," we note that "[i]t is the duty of this Court on its own motion to inquire into its jurisdiction." *State of Georgia Dept. of Trans. v. Douglas Asphalt Co.*, 297 Ga. App. 511 (677 SE2d 728) (2009).

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

SEP 15 2009

*I certify that the above is a true extract from
the minutes of 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, AUGUST 26, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0492

IN THE INTEREST OF: G. C. , K. C. , AND M. C. , CHILDREN (MOTHER)

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

99041

08JV1364



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **AUG 26 2009**

*I certify that the above is a true extract from
the minutes of the 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 31, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0493

IN THE INTEREST OF: A. L. J. , B. L. J. , AND G. V. J. , CHILDREN
(MOTHER)

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

95042

09JV0521



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

AUG 31 2009

*I certify that the above is a true extract from
the minutes of the 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 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0494
CAROLYN WEST V. SHALINI SELVARAJ

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

96042

09A05566



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

AUG 27 2009

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

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

Clerk.

Willie L. Mat... [Signature]

Court of Appeals of the State of Georgia

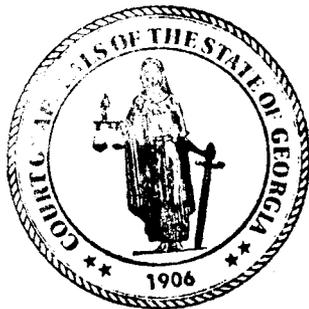
ATLANTA, August 19, 2009

The Court of Appeals hereby passes the following order:

A09D0495. PERKINS v. ASSET ACCEPTANCE, LLC.

Asset Acceptance, LLC obtained a judgment against Karey Perkins, which was entered on June 25, 2009. Because the amount of the judgment was less than \$10,000, Perkins was required to file an application for discretionary appeal from this judgment. See OCGA § 5-6-35 (a) (6). Perkins sought an extension of time in which to pursue her appeal, and the trial court granted an extension until August 10, 2009. Perkins then filed her application for discretionary appeal on that date.

Pursuant to OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the date of the order, decision or judgment sought to be appealed. The requirements of OCGA § 5-6-35 are jurisdictional and this Court cannot accept an appeal not made in compliance therewith. See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989). Here, Perkins did not file her application within 30 days of the trial court's ruling granting partial summary judgment. Accordingly, this Court lacks jurisdiction to consider the application. The fact that the superior court purported to grant an extension does not change this result. We are aware of no legal authority permitting either this Court or the trial court to grant an extension of time for the filing of an application for discretionary appeal. See OCGA § 5-6-35 (d); *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001); *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983); Court of Appeals Rules 16 (c) and 31 (g). Thus, this application is hereby DISMISSED.



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

AUG 19 2009

*I certify that the above is a true extract from
the minutes of 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 25, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0496
JORGE LUIS FLORES V. RUSSELL G. KEENER

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.

90042

09CV1725



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 25 2009

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

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

Clerk.

Will L. Mat...

Court of Appeals of the State of Georgia

ATLANTA, August 28, 2009

The Court of Appeals hereby passes the following order:

A09D0497. BERNARD WILLIAMS v. THE STATE.

On July 7, 2009, the trial court entered an order denying Bernard Williams' extraordinary motion for new trial. Thirty-one days later, on August 7, 2009, Williams filed this application for discretionary review. An application for discretionary appeal must be filed within 30 days of the order sought to be appealed. OCGA § 5-6-35 (d). Because this application is untimely, we lack jurisdiction to consider it. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Therefore, this application is *DISMISSED*.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 28 2009

*I certify that the above is a true extract from
the minutes of 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, NOVEMBER 24, 2009

Honorable Court of Appeals hereby passes the following order:

A09D0497. BERNARD WILLIAMS v. THE STATE .

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

93-042

2004RCCR0135

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

NOV 24 2009



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

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

Clerk.

Willi L. Martin

Court of Appeals of the State of Georgia

ATLANTA, August 26, 2009

The Court of Appeals hereby passes the following order:

A09D0498. KEVIN HUMPHREY v. THE STATE.

Kevin Humphrey filed this application for discretionary appeal of the order denying his motion to terminate probation. This is not an appeal from an order revoking probation, OCGA § 5-6-35 (a) (5), nor does it fall within any other provision of OCGA § 5-6-35 (a). The order is thus directly appealable and is not subject to the discretionary appeal requirements. This application for discretionary appeal is therefore **GRANTED** pursuant to OCGA § 5-6-35 (j). Humphrey shall have ten days from the date of this order to file his notice of appeal in the superior court. OCGA § 5-6-35 (g). The clerk of the superior court is directed to include a copy of this order in the record transmitted to the Court of Appeals.



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

AUG 26 2009

*I certify that the above is a true extract from
the minutes of 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 19, 2009

The Court of Appeals hereby passes the following order:

A09D0499. WRIGHT v. THE STATE.

Marvin Jack Wright filed an application seeking discretionary review of the trial court's order dismissing his motion to modify a restitution order. However, a trial court's ruling on a motion for modification of a restitution order is a final order that may be appealed directly. See *The Limited v. Learning Childbirth Center*, 255 Ga. App. 688, 690 (1) (566 SE2d 411) (2002).

This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the lower court's order is subject to direct appeal. Accordingly, Wright's application is hereby GRANTED. Wright shall have 10 days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the appellate record.



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

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

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

Willie L. Martin, Clerk.

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

ATLANTA, AUGUST 26, 2009

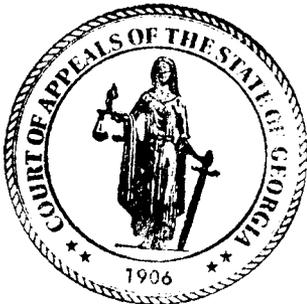
The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0500
TERRANCE MOORE 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.

70042

03CR199



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 26 2009

*I certify that the above is a true extract from
the minutes of the 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 27, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0501
CHRISTOPHER JAMERO GILES V. THE STATE

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

71042

2003CR104



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

AUG 27 2009

*I certify that the above is a true extract from
the minutes of the 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 10, 2009

The Court of Appeals hereby passes the following order:

A09D0502. LANE v. SMITH.

Jennifer Lane filed this application for discretionary appeal from an order denying her motion to modify visitation and granting Joseph O. Smith II a period of extended visitation. In its order, the superior court expressly reserved the issue of attorney fees for later determination. Nothing in the application indicates that the superior court has ruled on this issue, which remains pending before that court. “Generally, an order is final and appealable when it leaves no issues remaining to be resolved, constitutes the court’s final ruling on the merits of the action, and leaves the parties with no further recourse in the trial court.” *Thomas v. Douglas Co.*, 217 Ga. App. 520, 522 (1) (457 SE2d 835) (1995). Because the order appealed from is not a final order, Lane was required to follow the interlocutory application procedures in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period. See *Miller v. Miller*, 282 Ga. 164 (646 SE2d 469) (2007). Accordingly, this Court is without jurisdiction to consider this appeal, which is hereby ordered **DISMISSED**. The “petition for stay of final order” is **DISMISSED AS MOOT**.



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

SEP 10 2009

I certify that the above is a true extract from
the minutes of 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, OCTOBER 08, 2009

The Court of Appeals passed the following order

Case No. A09D0502

JENNIFER LANE V. JOSEPH O. SMITH II

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 OCT 08, 2009*

*I certify that the above is a true extract from
the minutes of the 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 31, 2009

The Court of Appeals hereby passes the following order:

APPLICATION NO. A09D0503
CYNTHIA MORRIS V. RICKY WELDON MORRIS, JR.

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

97042

05CV3056



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

AUG 31 2009

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