

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

ATLANTA, SEPTEMBER 15, 2008

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

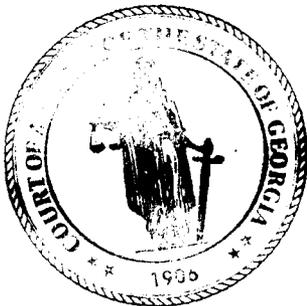
APPLICATION NO. A09D0001

TEYARKO WISE V. THE STATE

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

95001

SU07CR2151



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

SEP 15 2008

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

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

Clerk.

*Will L. Mat...*

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

ATLANTA, AUGUST 27, 2008

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

APPLICATION NO. A09D0003  
WHITE COLUMNS COMMUNITY ASSOCIATION INC., V. JEFF W.  
RAGSDALE ET AL

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

98001

2007CV129674



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **AUG 27 2008**

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

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hereto affixed the day and year last above written.*

*Clerk.*

*Willi L. Mat... [Signature]*

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

ATLANTA, SEPTEMBER 09, 2008

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

APPLICATION NO. A09D0004  
KERRI ANNE IMMEL V. RALPH MONROE IMMEL

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.

90001

2008CV149125

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 09 2008

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

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

*Clerk.*

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



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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0005  
RILEY SAMUEL LEE V. TAMITHA TEDDER WIELINGA

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

93001

2007CV636



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0006

THE OLD BURNT FORT LIMITED PARTNERSHIP V. ELDON L. MIXON,  
SR., ET AL

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

91001

06V1026



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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the minutes of the Court of Appeals of Georgia*

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

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

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0007

JAMES R. COLEMAN, JR., V. MARY HELEN COLEMAN

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.

97001

0019675



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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*Clerk.*

*Will. L. Martin*



Supreme Court of Georgia

TO: Bill Martin, Clerk

FROM: Tee Barnes, Clerk 

Date: February 8, 2010

RE: A09D1745. Coleman v. Coleman

According to the information set out in the attached order, the Court of Appeals granted the above-referenced discretionary application and thereafter transferred the direct appeal (A09A1745) on jurisdictional grounds. The Court has decided to treat the transferred appeal as a discretionary application and directs me "to request from the Court of Appeals the prompt transmission of the discretionary application and response thereto."

Pursuant to the direction of the Court, I would appreciate your sending to my attention the A09D1745 application and response so that I can forward it to the Court for its consideration.

Please contact me if you have any questions. Thank you for your assistance.

cc: Tori Little, Docketing Clerk



**SUPREME COURT OF GEORGIA**

Case No. S10A0610

Atlanta February 8, 2010

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**JAMES R. COLEMAN, JR. v. MARY HELEN COLEMAN**

From the Superior Court of Cobb County.

In this pending divorce case, the Court of Appeals granted appellant's discretionary application, A09D0007 (September 12, 2008), but transferred the direct appeal here, A09A1745 (December 21, 2009) upon receipt of the record. This Court has exercised its divorce and alimony jurisdiction in this case in two other appeals, see S08I1990 (denying review of order denying appellant's motion to dismiss divorce complaint) (October 27, 2008); 281 Ga. 101 (636 SE2d 527) (2006). The instant appeal of the trial court's order finding appellant in contempt of a temporary alimony order is properly within this Court's subject matter jurisdiction, Ga. Const. of 1983, Art. VI, Sec. III, Par. III (6); see Egeland v. Egeland, 279 Ga. 565 (619 SE2d 596) (2005); Gates v. Gates, 277 Ga. 175, 176 (1) (2003).

Because the case is within this Court's subject matter jurisdiction, the Court of Appeals lacked jurisdiction over the discretionary application and lacked the authority to grant the application. Accordingly, the appeal is hereby stricken from the docket and shall be re-docketed as a discretionary application. The Clerk of Court is directed to request from the Court of Appeals the prompt transmission of the discretionary application and response thereto. Upon receipt of the application and response thereto, the Court shall make a determination whether to grant or deny the application.

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

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

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

  
Lynn M. Stinchcomb, Chief Deputy Clerk

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0008  
GWINNETT HOSPITAL SYSTEM, INC., D/B/A GWINNETT MEDICAL  
CENTER V. RICHARD WYCKSTANDT, ET AL

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

70001

05A06215



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

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

# Court of Appeals of the State of Georgia

ATLANTA,

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

SEP 08 2008

**A09D0009. HARRY LLOYD EASON v. GREG DOZIER.**

Upon consideration, Harry Lloyd Eason's application for discretionary appeal is hereby GRANTED. Because Eason has already filed a notice of appeal and his case has already been docketed in this Court as A09A0076, he need not file another notice of appeal. See *Wannamaker v. Carr*, 257 Ga. 634, 635 (1) (362 SE2d 53) (1987).

LC#  
07V320

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 08 2008

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the minutes of the Court of Appeals of Georgia.*

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



*Willie L. Martinez*, Clerk.

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

ATLANTA,            SEPTEMBER 10, 2008

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

APPLICATION NO.        A09D0010  
DELORES BROWN V. GREGORY GADSON

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

92001

2006DR1382



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 10 2008**

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

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

*W. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 03 2008

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

**A09D0012. JERRY L. HOLMES v. THE STATE.**

Jerry L. Holmes filed this application for discretionary appeal on August 22, 2008, seeking an appeal from a July 22, 2008, order denying his motion for new trial in his probation revocation case.<sup>1</sup> To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Holmes's application was filed 31 days after the order he seeks to appeal. Holmes's untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.

LC#  
05900882

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* SEP 03 2008

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the minutes of the Court of Appeals of Georgia.*

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*Willie L. Martinez*, Clerk.



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<sup>1</sup>Holmes'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 Rule 31 (d).

# Court of Appeals of the State of Georgia

ATLANTA,

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

**SEP 19 2008**

## **A09D0013. QUEEN E. PARKER v. CEDRIC SAMPSON.**

After Queen Parker failed to appear for trial on April 14, 2008, the court conducted a bench trial in her absence. On April 16, 2008, the court entered judgment for Cedric Sampson in the amount of \$1,355 plus costs and interest. Parker filed a motion for reconsideration, claiming that due to taking an increased dosage of oxycodone, she had overslept, had arrived only minutes late, and had not realized that she had gone to the wrong courtroom. The court denied the motion, finding no basis upon which to grant reconsideration.

Under OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within 30 days of the entry of the appealable judgment. A motion for reconsideration does not serve to extend the time for filing an application for appeal. See *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). Further, an order denying a motion for reconsideration is not appealable in its own right. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Because this application was not filed within 30 days of the April 16, 2008 order, it is untimely and this Court lacks jurisdiction to consider it. Therefore, the application is ordered **DISMISSED**.

LC#  
STCV074875



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 19 2008**

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

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

*Willie L. Martinez* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

AUG 27 2008

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

**A09D0014. KAREN HANDEL v. JAMES R. POWELL.**

Karen Handel, the Secretary of State of Georgia, seeks an appeal from the superior court's order reversing Handel's decision to disqualify James R. Powell as a candidate for district four of the Georgia Public Service Commission. While Powell's appeal to the superior court was pending, the superior court stayed Handel's decision, and Powell's name appeared on the ballot as a candidate in the Democratic primary, which he won.

After the superior court reversed Handel's decision, she filed this application for discretionary appeal to this court. Appeals in cases of election contests, however, are within the exclusive appellate jurisdiction of the Supreme Court. Ga. Const. 1983, Art. VI, § VI, ¶ II (2). Therefore, this appeal is **TRANSFERRED** to the Supreme Court for disposition.

LC#  
2008CV153541

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

AUG 27 2008

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*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,

SEP 11 2008

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

**A09D0015. IN THE INTEREST OF: Z. A., A CHILD.**

On August 25, 2008, the biological mother of Z. A. filed an application for discretionary appeal in this Court, seeking review of the juvenile court's July 22, 2008 order terminating her parental rights. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because the mother filed her application 34 days after entry of the order she seeks to appeal, the application is untimely. This Court lacks jurisdiction to consider an untimely application. OCGA § 5-6-35 (d). Therefore, this application is *DISMISSED*.

LC#  
02807J1453



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 11 2008

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

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

*Will L. Mat...*

, Clerk.

# Court of Appeals of the State of Georgia

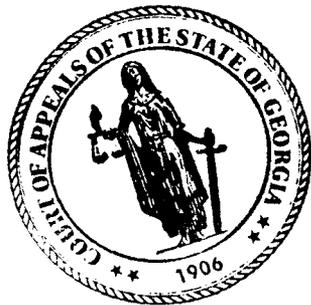
ATLANTA,

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

**A09D0016. IN THE INTEREST OF: M. L. V., a child.**

On June 4, 2008, this court issued an order denying Jacqueline Vaughn's Application No. A08D0376 from an order terminating her parental rights. Vaughn now seeks an appeal from a "corrected order" terminating parental rights. The original order terminating Vaughn's parental rights, however, remains undisturbed. Furthermore, we note that Vaughn argued in her original application that the order terminating her parental rights contained improper "references to DFCS in the termination." The order denying Vaughn's original application is "res judicata with respect to the substance of the requested review." *Northwest Social & Civic Club v. Franklin*, 276 Ga. 859, 860 (583 SE2d 858) (2003). By denying Vaughn's prior application this court has effectively determined that any alleged factual errors in the juvenile court's original order were immaterial and as such they did not affect the outcome. Because we conclude that Vaughn is not entitled to file a second application for appeal under these circumstances, the application is *dismissed* for lack of jurisdiction.

LC#  
03507J160



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **SEP 12 2008**

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

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

*Will L. Martin* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 22 2008

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

## **A09D0017. SAMMY HALLAQ v. GREENWOOD TRUST COMPANY.**

Sammy Hallaq filed this application for discretionary appeal from the order denying his motion to recuse or disqualify the state court judge assigned to hear the above styled case. An order denying a motion to recuse is generally not directly appealable or subject to the discretionary appeal requirements. See *Stevens v. Myers*, 190 Ga. App. 61, 62 (378 SE2d 334) (1989). Specifically, where the order is entered prior to the final disposition of the case, a direct appeal or discretionary application is premature and the case will be dismissed for that reason. OCGA § 5-6-48 (b) (2). If, on the other hand, the order is entered after the case has been decided on the merits, as is the case here, the matter is then moot and an appeal from such an order will likewise be dismissed. OCGA § 5-6-48 (b) (3); see also *Warringer v. Warringer*, 204 Ga. App. 86 (418 SE2d 446) (1992) (Beasley, J., concurring specially).

As Hallaq's case was decided on the merits prior to the motion giving rise to this application, his appeal is unauthorized and is therefore ordered DISMISSED.

LC#  
08C02784



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

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Will L. Martin*, Clerk.

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

ATLANTA,                      OCTOBER      16, 2008

*The Court of Appeals passed the following order*

Case No. A09D0017

SAMMY HALLAQ V. GREENWOOD 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    OCT 16, 2008*

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

*Willie L. Martinez*

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0018  
TBF FINANCIAL, LLC V. DERRICK HOUSTON ET AL

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

91002

07SV01823



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **SEP 12 2008**

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

*W. Clerk. [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 16 2008

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

## **A09D0019. WALTER MABLE v. THE STATE.**

Walter Mable has applied for discretionary review of the trial court's order revoking the balance of his probation. An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). The order that Mable seeks to appeal was entered May 18, 2006, but Mable did not file this application until August 28, 2008. Consequently, this application is untimely, and we lack jurisdiction to consider it.

Mable relies on a June 26, 2008 order of the trial court granting his motion for an out-of-time appeal, but an out-of-time discretionary appeal is not authorized by OCGA § 5-6-35 or any other code section. The trial court had no authority to extend the time for filing an application for discretionary appeal. See *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). We therefore **DISMISS** this application.

LC#  
87CR32, 00CR322, 05CR225,  
05CR42



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 16 2008

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

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*Willie L. Mat... Clerk.*

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

ATLANTA, SEPTEMBER 17, 2008

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

APPLICATION NO. A09D0020  
AYANNA HICKMAN-GIBSON V. DARIN HABERSHAM

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

70002

2007CV140206



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 17 2008**

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*Clerk.*

*W. L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

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

**SEP 15 2008**

## **A09D0021. JERRY LARRY COLLIER v. CVS PHARMACY.**

Jerry Larry Collier filed a complaint against CVS Pharmacy for damage that occurred to his car while parked at a CVS parking lot. The state court denied filing of Collier's complaint pursuant to OCGA § 9-15-2 (d) on the ground that Collier filed suit in the wrong county. Collier filed this application for discretionary appeal.

An order denying filing under OCGA § 9-15-2 (d) is not in and of itself subject to the discretionary appeal procedure requirements of OCGA § 5-6-35. Moreover, no provision of subsection (a) of OCGA § 5-6-35 is applicable to this case. The order, therefore, is directly appealable, and Collier's application for appeal is hereby **GRANTED** as required under OCGA § 5-6-35 (j). Collier shall have ten days from the date of this order to file a notice of appeal with the DeKalb State Court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.

LC#  
08A93389



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

**SEP 15 2008**

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the minutes of the Court of Appeals of Georgia.*

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

*Willie L. Martin*, Clerk.

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

ATLANTA, SEPTEMBER 18, 2008

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

APPLICATION NO. A09D0022  
GEORGIA CANCER TREATMENT & HEMATOLOGY CENTER V.  
MCKESSON CORP. D/B/A, MCKESSON SPECIALTY DISTRIBUTION  
SERVICES

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.

92002

08SV0599



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 18 2008**

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

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

*Clerk.*

*Will. L. Martinez*

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

ATLANTA, SEPTEMBER 12, 2008

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

APPLICATION NO. A09D0023  
DANIEL HOWARD V. THE STATE

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

94002

Z76130



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 12 2008**

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

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

ATLANTA,                      OCTOBER      07, 2008

*The Court of Appeals passed the following order*

Case No. A09D0023

DANIEL HOWARD 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    OCT 07, 2008*

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

*Clerk.*

*Will. L. Martinez*

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

ATLANTA, SEPTEMBER 18, 2008

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

APPLICATION NO. A09D0024

ANDREW LUMPKIN V. THE STATE

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

99002

SU08CR1167



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 18 2008**

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*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      SEPTEMBER 17, 2008

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

APPLICATION NO.            A09D0025

IN THE INTEREST OF: P. D. W. , W. C. W. , AND P. N. W. , 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.

95003

0800108



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 17 2008**

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

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

*Clerk.*

*Will L. Martinez*

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

ATLANTA, SEPTEMBER 24, 2008

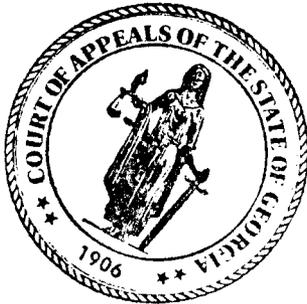
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0026  
IN THE INTEREST OF: J. F. T. , A CHILD (MOTHER)

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

96003

01307J045



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 24 2008**

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

*Will. L. Martin*

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

ATLANTA, SEPTEMBER 18, 2008

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

APPLICATION NO. A09D0027  
MARLON ANDRE WRIGHT V. THE STATE

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

98003

1E01CR289



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **SEP 18 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA, SEPTEMBER 22, 2008

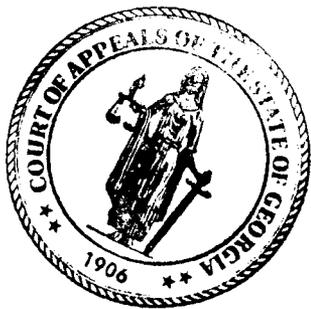
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0028  
CHRISTOPHER ALFRED BRANCH V. THE STATE

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

90003

03R050



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 22 2008**

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

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*Clerk.*

*Will L. Martin*

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

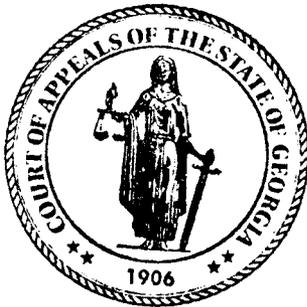
ATLANTA,                      OCTOBER      07, 2008

*The Court of Appeals passed the following order*

Case No. A09D0028

CHRISTOPHER ALFRED BRANCH 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    OCT 07, 2008*

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Clerk.*

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

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

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

**Docketing Date:** October 24, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0258**

CHRISTOPHER ALFRED BRANCH v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0028

OCT 31 2008

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 25 2008

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

**A09D0029. IN THE INTEREST OF: R. H., A CHILD.**

Stephen Hayes has applied for discretionary review of the juvenile court's order denying his petition to legitimate R. H. An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). The order that Hayes seeks to appeal was entered May 17, 2007, but Hayes did not file this application until September 8, 2008. Consequently, this application is untimely, and we lack jurisdiction to consider it. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

Hayes relies on an August 29, 2008 order of the trial court granting his motion for an out-of-time appeal, but an out-of-time appeal is not authorized in civil cases, such as this. *Woodall v. Woodall*, 248 Ga. 172 (281 SE2d 619 (1981)). Therefore, his application to appeal is untimely and we must *DISMISS* this application.

LC#  
06DE00534



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* SEP 25 2008

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

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

*Will L. Martinez*, Clerk.

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

ATLANTA,

SEPTEMBER 29, 2008

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

APPLICATION NO. A09D0030

JAMES JOHN SNELIUS V. THE STATE

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

91003

06B2590

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 29 2008



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*Clerk.*

*Willie L. Martinez*

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

ATLANTA,                      OCTOBER      01, 2008

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

APPLICATION NO.            A09D0031  
CITY OF CARROLLTON ET AL V. ROBIN ROBINSON

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

97003

2006017039



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **OCT 01 2008**

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*Clerk.*

*W. L. Martin*

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

ATLANTA,                      OCTOBER      01, 2008

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

APPLICATION NO.            A09D0032

DOROTHY GRANT V. THE STATE

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

70003

2008CR045

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*



**OCT 01 2008**

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the minutes of the Court of Appeals of Georgia*

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hereto affixed the day and year last above written.*

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **NOV 13 2008**

**A09D0033. JAMES KINARD v. THE STATE.**

On October 3, 2008, this Court dismissed James Kinard's application for discretionary review on the ground that Kinard had failed to submit a stamped "filed" copy of the order he sought to appeal, as required by Court of Appeals Rule 31 (e). Kinard now seeks reconsideration of our dismissal order. It appears that Kinard did, in fact, timely submit a stamped "filed" copy of the order in question, but through clerical oversight that copy was misfiled. Accordingly, Kinard's motion for reconsideration is GRANTED; this Court's October 3, 2008 order dismissing his application is VACATED; and the discretionary application is REINSTATED.

Upon full consideration of the merits of the application, however, the application is hereby DENIED.

LC#  
2008CR046



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

**NOV 13 2008**  
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*Will L. Martin*, Clerk.

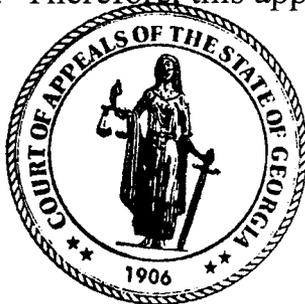
# Court of Appeals of the State of Georgia

ATLANTA, OCT 03 2008

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

**A09D0033. JAMES KINARD v. THE STATE.**

James Kinard filed an application for discretionary review of an order revoking his probation. Kinard included a copy of the order with his application, but it was not a stamped "filed" copy as required by Court of Appeals Rule 31 (e). On September 10, 2008, this Court ordered Kinard 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* OCT 03 2008

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

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hereto affixed the day and year last above written.*

*Willi L. Mart*

, Clerk.

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

ATLANTA,            OCTOBER    03, 2008

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

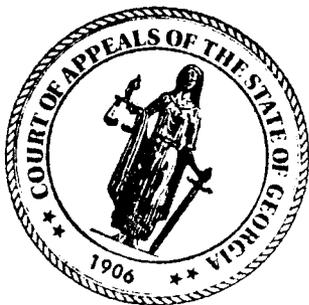
APPLICATION NO.        A09D0034

IN THE INTEREST OF A. S. P. , A CHILD (MOTHER)

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

92003

0800124



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 03 2008**

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

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

*Clerk.*

*Willie Z. Martin*

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

ATLANTA, SEPTEMBER 26, 2008

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

APPLICATION NO. A09D0035  
DEBORAH A. FOX V. CITY OF CUMMING, GA

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

94003

07CV1314



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 26 2008**

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

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

*Clerk.*

*Will. L. Martinez*

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

ATLANTA,            OCTOBER    03, 2008

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

APPLICATION NO.            A09D0036  
MUNICIPAL CONTRACTING COMPANY, INC., V. AMERICAN  
INTERSTATE INSURANCE COMPANY

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

99003

08100791

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 03 2008**



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

*Clerk.*

*Willi Z. Mantz*

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

ATLANTA,                      SEPTEMBER 17, 2008

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

APPLICATION NO.            A09D0037

IN THE INTEREST OF: M. B. , J. B. , S. B. , AND A. B. , 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.

95004

07CV5568



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 17 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA,                      OCTOBER      01, 2008

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

APPLICATION NO.            A09D0038

IN THE INTEREST OF: M. L. B. , & J. L. B. , CHILDREN (FATHER)

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

96004

07CV4443

*Court of Appeals of the State of Georgia*

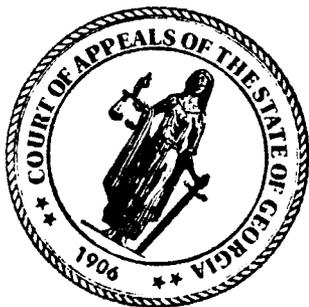
*Clerk's Office, Atlanta*

**OCT 01 2008**

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hereto affixed the day and year last above written.*

*Clerk.*



*Willie L. Martinez*

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

ATLANTA,                      OCTOBER      01, 2008

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

APPLICATION NO.            A09D0039  
COUNTY BOARD OF EDUCATION OF RICHMOND COUNTY, GEORGIA  
V. FELICE STONE

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

98004

2008RCCV0113



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 01 2008**

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

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **SEP 15 2008**

## **A09D0040. ALFRED FREDRICK v. YOLINDA HINKLE ET AL.**

Alfred Fredrick filed this application to appeal the state court's "order amending grant of judgment on the pleadings as to defendant Yolinda Hinkle," who the court had previously dismissed from Fredrick's personal injury action. In the amendment, the court determined that there was no just reason for delay and directed entry of judgment for Hinkle under OCGA § 9-11-54 (b).

A direct appeal is proper where, as in this case, the trial court, pursuant to OCGA § 9-11-54 (b), expressly determines that its ruling on a claim is final and there is no just reason for delay. *Sam's Wholesale Club v. Riley*, 241 Ga. App. 693, 695 (1) (527 SE2d 293) (1999). Therefore, this application for appeal is **GRANTED** as required under OCGA § 5-6-35 (j). Fredrick shall have ten days from the date of this order to file a notice of appeal with the DeKalb State Court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.

LC#  
07A70577

*Court of Appeals of the State of Georgia*



*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta **SEP 15 2008**

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

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

*Willie L. Martinez*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0041. JEFFERY HUGHES v. THURMAN L. HENDERSON.**

Prison inmate Jeffery Hughes has filed an application for discretionary review of the trial court's order denying his request for leave to file a mandamus action as a pauper against a member of the Board of Pardons and Paroles. The Supreme Court of Georgia has exclusive appellate jurisdiction of all cases involving extraordinary remedies, including mandamus. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); *Ladzinske v. Allen*, 280 Ga. 264 (626 SE2d 83) (2006). Accordingly, this case is TRANSFERRED to the Supreme Court.

LC#  
2008CV154639



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

**SEP 19 2008**  
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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Will L. Martin*, Clerk.

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

ATLANTA,                      OCTOBER    02, 2008

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

APPLICATION    NO.            A09D0042

JOHN C. HILLIS V. CITY OF ATLANTA, GEORGIA ET AL

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

91004

2008CV149483



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*                      **OCT 02 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA, SEPTEMBER 26, 2008

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

APPLICATION NO. A09D0043  
MICHAEL MILLER V. MOLLY WHEATLEY

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

97004

2007CV133689



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**SEP 26 2008**

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*Clerk.*

*Willi L. Mat... [Signature]*

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

ATLANTA,                    OCTOBER    03, 2008

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

APPLICATION NO.            A09D0044  
MARINA GOODEN V. JAYSON SCALES

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

70004

2008STSC1616



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 03 2008**

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

*Willi Z. Mat:R*

# Court of Appeals of the State of Georgia

ATLANTA, OCT 02 2008

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

**A09D0045. JEFFERY D. AIKENS v. THE STATE.**

Jeffery Aikens has applied for discretionary review of an order denying his motion to modify a sentence imposed after his probation was revoked. The order that Aikens seeks to appeal was entered on June 17, 2008, but Aikens did not file this application until 85 days later, on September 10, 2008. 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*

**OCT 02 2008**

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*Willie L. Martin*

, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 24 2008

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

**A09D0046. AARON M. PONDER v. CACV OF COLORADO, LLC.**

Aaron M. Ponder filed this discretionary application from the judgment in favor of CACV of Colorado, LLC in the amount of \$5,158.31 principal, \$5,543.32 interest, \$540.83 attorney fees and \$110.00 costs for a total of \$11,352.46. OCGA § 5-6-35 (a) (6) requires that appeals in all actions for damages in which the judgment is \$10,000.00 or less must be brought in accordance with the discretionary appeals procedures. But the total judgment of \$11,352.46 in this case makes OCGA § 5-6-35 (a) (6) inapplicable. See *Castleberry's Food Company v. Smith*, 205 Ga. App. 859, 861 (1) (424 SE2d 33) (1992). Because OCGA § 5-6-35 (a) does not require an application for appeal, this application is **GRANTED** under OCGA § 5-6-35 (j).

Ponder shall have 10 days from the date of this order in which to file a notice of appeal. The Clerk of the State Court of Gwinnett County is directed to include a copy of this order in the appeal record transmitted to this Court.

LC#  
06C12378



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* SEP 24 2008

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

*Willie L. Martin*, Clerk.

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

ATLANTA, SEPTEMBER 30, 2008

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

APPLICATION NO. A09D0047

CITY OF ATLANTA, GEORGIA ET AL V. E.F. LUNA, LLC, 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.

94004

2008CV146048



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

SEP 30 2008

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*Clerk.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

SEP 24 2008

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

**A09D0048. HAROLD BRICKLE v. FULTON COUNTY BOARD OF  
EDUCATION ET AL.**

On September 17, 2008, Harold Brickle filed this application for discretionary appeal from the superior court's July 25, 2008, order in his workers' compensation case. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Brickle filed his application 54 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**.

LC#  
2008CV151305

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

SEP 24 2008

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*Will. L. Martin*, Clerk.

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

ATLANTA,                      OCTOBER      03, 2008

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

APPLICATION NO.            A09D0049

JASON MCCLELLAND V. THE STATE

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

95005

01R337



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta            OCT - 3 2008*

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

*Clerk.*

*Willie L. Mont...*

# Court of Appeals of the State of Georgia

ATLANTA, OCT 01 2008

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

**A09D0050. ADANTE SMITH v. ARROW FINANCIAL SERVICES LLC,  
ASSIGNEE OF HOUSEHOLD BANK FOR YAMAHA.**

On September 19, 2008, Adante Smith filed this application for discretionary review from the August 19, 2008 order granting summary judgment to Arrow Financial Services LLC in this suit on account. An application for discretionary appeal must be filed within thirty days of the order appealed. OCGA § 5-6-35 (d). Because Smith filed his application 31 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is **DISMISSED**.

07A736706



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

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*Witness my signature and the seal of said court  
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*Willie L. Martin*

, Clerk.

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

ATLANTA,                      OCTOBER                      07, 2008

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

APPLICATION NO.                      A09D0051

BRAD A. HENDRICKSON V. ANGIE M. HENDRICKSON

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

98005

2008CV154414



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 07 2008**

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*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      OCTOBER      07, 2008

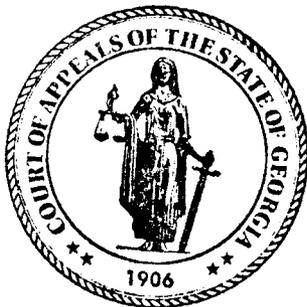
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0052  
BRENDA MEDLIN V. DOUGLAS MEDLIN

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

90005

2006V85387



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **OCT 07 2008**

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

*Willie L. Martin*

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

ATLANTA,                      OCTOBER    02, 2008

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

APPLICATION    NO.                      A09D0053

HENRY SMITH V. THE STATE

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

93005

SU08CR1012

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 02 2008**



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

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA, SEP 30 2008

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

**A09D0054. ALBERT L. JEFFCOAT v. THE STATE.**

Albert L. Jeffcoat, who is proceeding pro se, filed this discretionary application seeking review of the trial court's denial of his motion for out of time appeal. A denial of a motion for out of time appeal is directly appealable. *Lunsford v. State*, 237 Ga. App. 696 (515 SE2d 198) (1999). Therefore, this application for appeal is *GRANTED* as OCGA § 5-6-35 (j) requires. Jeffcoat shall have ten days from the date of this order to file a notice of appeal with the Effingham Superior Court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.

SU05CR211



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* SEP 30 2008

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

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

*Will L. Martin*, Clerk.

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

ATLANTA,                      OCTOBER      08, 2008

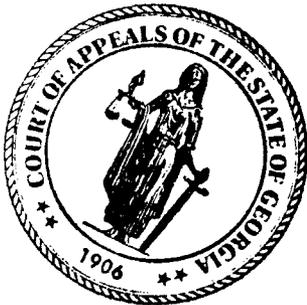
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0055  
IN THE INTEREST OF : K. H. , A CHILD (FATHER)

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

97005

10508222



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 08 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

*William L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA, OCT 06 2008

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

## A09D0056. ROBERT GENE LASTER v. THE STATE.

Robert Gene Laster, who is proceeding pro se, filed this discretionary application from the superior court's order denying his "Defendant Request for Judicial Ruling on Question of Law." Apparently, Laster sought a ruling on his petition to correct his sentence by crediting him for time spent in confinement awaiting trial.

The superior court denied the request for a ruling on the ground that it already had ruled on the petition for sentence correction in an August 8, 2008 order. Laster then filed this application.

To the extent Laster seeks to appeal the denial of his request for a judicial ruling, his application is moot because the superior court has already ruled. To the extent that Laster seeks to appeal the August 8, 2008 denial of his petition for sentence correction, his September 24, 2008 application is untimely.<sup>1</sup> For these reasons, Laster's application for discretionary appeal is **DISMISSED**. OCGA § 5-6-34 (d). See also OCGA § 5-6-48 (b) (3).



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

OCT 06 2008

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Willi Z. Mantz*, Clerk.

2005R134, 2005R186, 2006R212

---

<sup>1</sup>Although unclear, it appears that Laster alleges the superior court failed to serve him with a copy of the August 8, 2008 order. If Laster's right to apply for an appeal was frustrated due to the superior court's failure to send him a copy of the order, his remedy is to petition the trial court to vacate and re-enter the order as a means of correcting the problem. *Cambron v. Canal Ins. Co.*, 246 Ga. 147, 148-149 (1) (269 SE2d 426) (1980).

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

ATLANTA,            OCTOBER    14, 2008

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

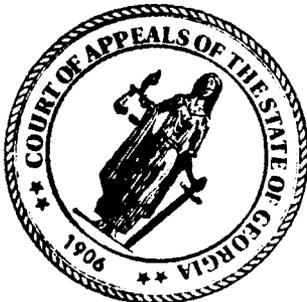
APPLICATION NO.        A09D0057

LISA NEWELL V. CABOT CREEKSIDE LEASECO 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.

71005

08C00726



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 14 2008**

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

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

*Clerk.*

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

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

ATLANTA,                      OCTOBER      09, 2008

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

APPLICATION NO.            A09D0058

N.D.C. FAMILY CARE, INC., V. D&C MEDICAL DIAGNOSTICS, LLC

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

92005

081699



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA,                      OCTOBER                      23, 2008

*The Court of Appeals passed the following order*

Case No. A09D0058

N.D.C. FAMILY CARE, INC., V. D&C MEDICAL DIAGNOSTICS, LLC

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 23, 2008*

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Clerk.*

*Will L. 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:** November 12, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0349**

N.D.C. FAMILY CARE, INC., et al. v. D & C MEDICAL DIAGNOSTIC, LLC

Clerk, Supreme Court of Georgia

Case No. A09D0058

NOV 14 2008

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

NOV 24 2008

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

**A09D0058. N.D.C. FAMILY CARE, INC. v. D&C MEDICAL DIAGNOSTICS, LLC.**

Upon consideration of the "Motion to Strike Appellant's Notice of Intention to Apply to Supreme Court of Georgia for Writ of Certiorari to Court of Appeals of Georgia," the motion is ***DENIED***.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

NOV 24 2008

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

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

, Clerk.

*W. L. Martin*

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

ATLANTA,                      OCTOBER      08, 2008

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

APPLICATION NO.            A09D0059

ROBERT MARTIN V. THE STATE

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

94005

0494528



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

**OCT 08 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

*Will L. Martin*

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

ATLANTA,                      OCTOBER     17, 2008

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

APPLICATION NO.            A09D0060

DANCO FINANCIAL, INC. V. MAULDIN BODY SHOP, INC.

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

99005

08SC0518



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

OCT 17 2008

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

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

*Clerk.*

*William L. Martinez*

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

ATLANTA,                      OCTOBER      09, 2008

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

APPLICATION NO.            A09D0061  
CARL HUGH FORT V. REBECCA RUCKER-FORT

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.

95006  
HS03CV40



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 09 2008**

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

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

*Clerk.*

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

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

ATLANTA,                      OCTOBER      22, 2008

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

APPLICATION NO.            A09D0062

IN THE INTEREST OF: L. B. F. AND D. D. F., CHILDREN (MOTHER)

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

96006

10707J0998



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

**OCT 22 2008**

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

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

*Clerk.*

*Will. L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*      OCT 20 2008

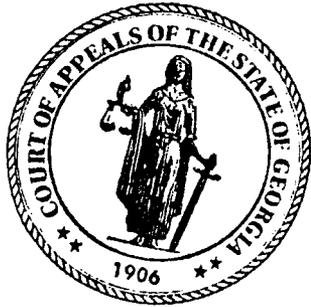
**A09D0063. ANQOUS COSBY v. FIRST TENNESSEE BANK et al.**

Anqous Cosby has filed an application for discretionary appeal from the trial court's order denying his discovery motions, dismissing two of five defendants for want of prosecution, and denying his motion to add parties and amend the complaint. We lack jurisdiction to consider the application.

In general, an order may not be appealed unless it is final – that is, “it leaves no issues 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.” *Caswell v. Caswell*, 157 Ga. App. 710 (278 SE2d 452) (1981). A party seeking to appeal a non-final order not enumerated as one of the exceptions in OCGA § 5-6-34 (a) must follow the procedures for interlocutory appeal set forth in OCGA § 5-6-34 (b), including obtaining a certificate of immediate review from the trial court.

All of the rulings about which Cosby complains are non-final rulings that can be appealed only by following the interlocutory appeal procedures. See, e.g., *Waye v. Continental Special Risks*, 289 Ga. App. 82 (656 SE2d 150) (2007) (dismissal of fewer than all defendants); *Williams v. City of Atlanta*, 263 Ga. App. 113, 114 (587 SE2d 261) (2003) (refusal to allow a new party); *Johnson & Johnson v. Kaufman*, 226 Ga. App. 77 (485 SE2d 525) (1997) (discovery rulings). Because Cosby failed to comply with the procedures for an interlocutory appeal, we are without jurisdiction to consider his application for discretionary review. This application is therefore DISMISSED.

LC#  
2007CV140659



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

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Will L. Martin*

, Clerk.

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

ATLANTA,                      OCTOBER                      22, 2008

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

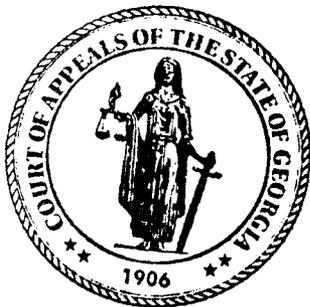
APPLICATION NO.                      A09D0064

IN THE INTEREST OF: L. C., A CHILD (FATHER)

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

90006

08J0822



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **OCT 22 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

OCT 16 2008

## **A09D0065. DARRELL BROWN v. THE STATE.**

Darrell Brown was found guilty of various crimes, including aggravated assault and kidnapping, in connection with a domestic dispute. We affirmed his convictions on appeal. *Brown v. State*, 275 Ga. App. 99 (619 SE2d 789) (2005). Brown later filed a motion for out-of-time appeal. The trial court denied the motion, and Brown now seeks discretionary review of that ruling.

Generally, an order denying a motion for out-of-time appeal is subject to direct appeal under OCGA § 5-6-34 (a). See *Rowland v. State*, 264 Ga. 872, 876 (452 SE2d 756) (1995). In this case, however, Brown's motion for out-of-time appeal was improper. "An out-of-time appeal serves as the remedy for a frustrated right of appeal for a criminal defendant whose conviction has not been reviewed by an appellate court." *Jackson v. State*, 280 Ga. 27 (622 SE2d 356) (2005). But Brown has already had a direct appeal, and he raises no arguments now that he could not have raised then. "He is not entitled to another bite at the apple by way of a second appeal." *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001); see also *Carter v. State*, 275 Ga. 846 (1) (622 SE2d 60) (2005). This application is therefore DISMISSED. See *Miller v. State*, 277 Ga. 372 (589 SE2d 108) (2003).

LC#  
03B2003

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

OCT 16 2008

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the minutes of the Court of Appeals of Georgia.*

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



*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

OCT 16 2008

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

## **A09D0066. MICHAEL HIGHT v. THE STATE.**

Michael Hight, who is proceeding *pro se*, filed this application for discretionary appeal from an order denying his "Motion to Vacate Void Judgment of Sentence and Conviction." Hight has already challenged his conviction by direct appeal to this Court, and the judgment was affirmed. *Hight v. State*, \_\_ Ga. App. \_\_ (Case No. A08A1128, decided July 10, 2008). This Court's affirmance is *res judicata*. *Stirling v. State*, 199 Ga. App. 877 (406 SE2d 282) (1991). Hight fails to raise any issue that could not have been raised in his first appeal, and he otherwise fails to raise any issue suggesting either his conviction or his sentence is a legal nullity. Accordingly, this application is **DISMISSED** for lack of jurisdiction.

LC#  
2003CR1052



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

OCT 16 2008

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the minutes of the Court of Appeals of Georgia.*

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hereto affixed the day and year last above written.*

*Will. L. McIntosh*, Clerk.

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

ATLANTA,                      OCTOBER        08, 2008

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

APPLICATION NO.            A09D0067

DARYL BAPTISTE V. THE STATE

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

97006

96CR5149



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 08 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA,                      OCTOBER      22, 2008

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

APPLICATION    NO.            A09D0068

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

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

90007

08J0822



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 22 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*  
*Will. L. Martin*

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

ATLANTA,                      OCTOBER      22, 2008

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

APPLICATION    NO.                      A09D0069

BROWN SHOES/NATURALIZER SHOES ET AL V. WILLIAM COUCH

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

70006

08CV7979



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

OCT 22 2008

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hereto affixed the day and year last above written.*

*Clerk.*

*Will. L. Martin*

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

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

**Docketing Date:** November 10, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0338**

NATURALIZER SHOES/BROWN SHOES et al. v. WILLIAM COUCH

Clerk, Supreme Court of Georgia

Case No. A09D0069

NOV 13 2008

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

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

## **A09D0070. CLAYTON COUNTY BOARD OF TAX ASSESSORS v. CITY OF ATLANTA.**

The Clayton County Board of Tax Assessors has applied for discretionary review of a post-judgment award of attorney's fees and litigation expenses to the City of Atlanta in this case involving the taxability of certain property that the city owns in Clayton County. Under OCGA § 5-6-35 (a) (10), "[a]ppeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14" must be taken by application for discretionary appeal. The fee award in this case, however, was made under OCGA § 48-5-311 (g) (4) (B) (ii). Such awards are directly appealable. See *Fulton County Bd. of Tax Assessors v. Butner*, 258 Ga. App. 68 (573 SE2d 100) (2002). Because the order complained of is not subject to the discretionary appeal procedure, this application is *granted* as required under OCGA § 5-6-35 (j). Applicant shall have ten days from the date of this order to file a notice of appeal with the superior court. The superior court is instructed to include a copy of this order in the record transmitted to this court.

LC#  
2005CV1991



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

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

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

*Willie L. Mat... [Signature]*

, Clerk.

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

ATLANTA,                      OCTOBER      23, 2008

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

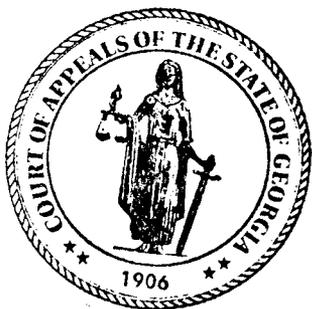
APPLICATION NO.            A09D0071

CLINCH COUNTY BOARD OF EDUCATION ET AL V. DOROTHY BALLANCE

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

92006

1999036125



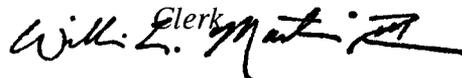
*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 23 2008**

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

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

*Will. L. Clerk* 

# Court of Appeals of the State of Georgia

ATLANTA,

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

OCT 21 2008

**A09D0072. TERRY REDD v. BELK, INC. et al.**

Prison inmate Terry Redd filed an application for discretionary appeal from the superior court's order dismissing the civil action he filed against Belk, Inc. and Randy Samuels. The order that Redd seeks to appeal was entered on April 4, 2008, but Redd did not file his application for discretionary appeal until September 30, 2008. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Redd filed his application 179 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is *DISMISSED*.

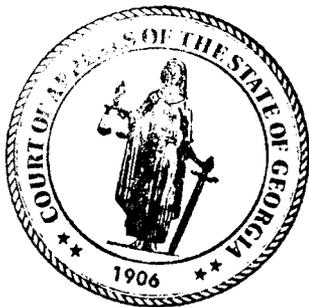
*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

OCT 21 2008

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

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



*Will L. Martinez*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

OCT 21 2008

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

**A09D0073. FREDRICK D. MONROE v. THE STATE.**

Fredrick D. Monroe filed a discretionary application seeking review of a superior court order. He included a copy of the order with his application, but it was not a stamped “filed” copy as required by Court of Appeals Rule 31 (e).<sup>1</sup> On October 3, 2008, this Court ordered Monroe to supplement his application with a stamped “filed” copy of the order 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**.

LC#  
38827

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

OCT 21 2008

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the minutes of the Court of Appeals of Georgia.*

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

*Will L. Mantz*, Clerk.



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<sup>1</sup>We acknowledge that Monroe included with his discretionary application a copy of a letter to the superior court clerk requesting a stamped “filed” copy of the order.

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

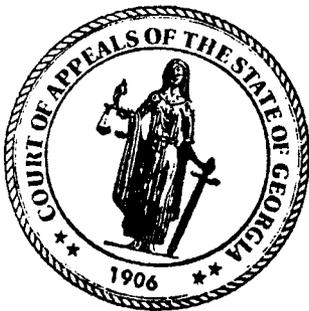
ATLANTA,                      NOVEMBER 07, 2008

*The Court of Appeals passed the following order*

Case No. A09D0073

FREDRICK D. MONROE 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 NOV 07, 2008*

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

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

*Clerk.*

*Will. L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

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

OCT 16 2008

**A09D0074. JAMES W. BULLOCK v. CONNIE BULLOCK.**

James W. Bullock seeks discretionary review of a superior court order finding him in willful contempt for failing to pay attorney's fees and litigation costs awarded to his ex-wife after her successful contempt action to enforce an alimony obligation in the parties' final divorce decree. "[A]n appeal from the judgment in a contempt action seeking to enforce any portion of [a] divorce decree other than child custody is ancillary to divorce and alimony and falls within [the Supreme] Court's jurisdiction over 'divorce and alimony cases.' [Cits.]" *Rogers v. McGahee*, 278 Ga. 287, 288 (1) (602 SE2d 582) (2004). Because the underlying issue in this appeal is the alimony obligation, this application is *TRANSFERRED* to the Supreme Court for disposition.

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

OCT 16 2008

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

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



*Willie L. Martin*

, Clerk.

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

ATLANTA,                      OCTOBER                      22, 2008

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

APPLICATION NO.                      A09D0075

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

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

96007

039345



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **OCT 22 2008**

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA,                      OCTOBER                      21, 2008

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

APPLICATION NO.                      A09D0076  
VELMA MCCRAY ET AL V. SHARON POUNDS

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

98007

05CV5677



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 21 2008**

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

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

*Clerk.*

*Will L. Mat...*

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

ATLANTA,                      OCTOBER      21, 2008

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

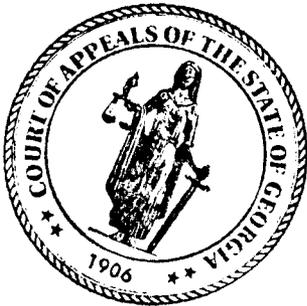
APPLICATION NO.            A09D0077

GERALD PITTS V. THE STATE

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

93007

94CR42165



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 21 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA,                      NOVEMBER 10, 2008

*The Court of Appeals passed the following order*

Case No. A09D0077

GERALD PITTS 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    NOV 10, 2008*

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

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

*Clerk.*

*Will. L. Martinez*

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

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

**Docketing Date:** December 01, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0445**

GERALD PITTS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0077

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 08 2008

Clerk, Court of Appeals of Georgia

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

ATLANTA,                      OCTOBER      22, 2008

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

APPLICATION NO.            A09D0078  
BERNICE WRIGHT V. MICHAEL L. THURMOND, COMMISSIONER,  
GEORGIA DEPARTMENT OF LABOR

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

91007

08CV48789



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

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

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

*Clerk.*

*Will. L. Martinez*

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

ATLANTA,                      OCTOBER        27, 2008

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

APPLICATION NO.            A09D0079

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

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

97007

10508095



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

**OCT 27 2008**

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

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

*Clerk.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 24 2008**

**A09D0080. MICHAEL AUSTIN GARNER v. THE STATE.**

Michael Austin Garner filed an application for discretionary review of the trial court's order denying his motion for reconsideration of a probation revocation order. However, an order denying a motion for reconsideration is not appealable in its own right. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985); see also *Bell v. Cochran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). This application is therefore DISMISSED for lack of jurisdiction.<sup>1</sup>

LC#  
18917



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

**OCT 24 2008**  
*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

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

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

---

<sup>1</sup> We note that Garner's application did not include a copy of the order from which he could have filed a timely application for discretionary review – the order revoking his probation.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **OCT 27 2008**

**A09D0081. ANNE MARIE RIETHER v. BRYANT KILLIAN SMITH.**

Anne Marie Riether filed this discretionary application to challenge an order of the Fayette County Juvenile Court awarding custody of her daughter to her former husband, Bryant Killian Smith. In addition to the custody modification proceeding, also pending in the juvenile court was a proceeding alleging deprivation. Riether contends that both the custody proceeding and the deprivation proceeding became final when the juvenile court entered an order resolving the issue of child support.

Riether filed two challenges to the child support order. First, she filed a notice of appeal to challenge the denial of her motion for reunification in the deprivation proceeding. See *In the Interest of S. A. W.*, 228 Ga. App. 197, 199 (1) (491 SE2D 441) (1997). The direct appeal has not yet been docketed in this Court. She also filed this discretionary application to challenge the change of custody.<sup>1</sup> See OCGA § 5-6-35 (a) (2).

The interest of judicial economy would best be served by considering Riether's challenge to the custody award at the same time that we consider her direct appeal of the order denying reunification. Therefore, this application for discretionary appeal is **GRANTED**. Riether shall have ten days from the date of this order to file a notice

---

<sup>1</sup>Under the 2007 amendment adding subsection (11) to OCGA § 5-6-34 (a), all judgments in child custody cases are directly appealable. Section 8 of 2007 Ga. L. 554 provides, however, that the amendment applies "to all child custody proceedings and modifications of child custody filed on or after January 1, 2008." This modification action was filed in 2007.

of appeal. The clerk of the juvenile court is directed to include a copy of this order in the record transmitted to the Court of Appeals.

LC#  
56071591, 56071592, 2007V0985

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

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

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



*Willie L. Martin*, Clerk.

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

ATLANTA,                      OCTOBER                      23, 2008

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

APPLICATION NO.                      A09D0082  
CYNTHIA LONDON V. ST. GOBAIN CORP

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

92007

NONE



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

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

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

Clerk.

*Willie L. Martin*

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

ATLANTA,            OCTOBER    23, 2008

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

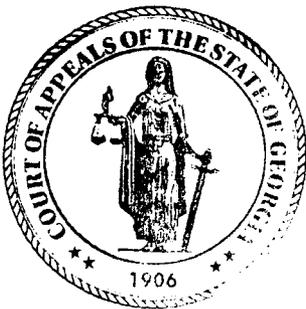
APPLICATION    NO.            A09D0083

GARY LEWIS FENDLEY V. COWETA COUNTY SHERIFF'S OFFICE, ET AL

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

94007

2008V465



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 23 2008**

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

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

*Clerk.*

*Will L. Mat...*

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

ATLANTA,                      NOVEMBER 07, 2008

*The Court of Appeals passed the following order*

Case No. A09D0083

GARY LEWIS FENDLEY V. COWETA COUNTY SHERIFF'S OFFICE, 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    NOV 07, 2008*

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      OCTOBER      29, 2008

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

APPLICATION    NO.            A09D0084  
GEORGIA ANN CLARK V. WASH TUBNER, JR

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

99007

2008CV05530



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

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

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

*Clerk.*

*Will L. Mat...*

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

ATLANTA,                      JANUARY      12, 2009

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

APPLICATION NO.              A09D0085

JERRY L. HOLMES V. THE STATE

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

95008

050882



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,                      OCTOBER      22, 2008

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

APPLICATION NO.            A09D0086

IN THE INTEREST OF:    K. C. W. AND B. K. W. , 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.

96008

0800301



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**OCT 22 2008**

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

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

*Clerk.*

*Will. L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

OCT 30 2008

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

**A09D0087. ROBERT S. GIBSON v. DANA FREEMAN F/K/A DANA GIBSON  
ET AL.**

Robert S. Gibson has applied for discretionary review of the trial court's order denying his traverse to a garnishment. An application for discretionary appeal must be filed within thirty days of the order sought to be appealed. OCGA § 5-6-35 (d). The order that Gibson seeks to appeal was entered August 14, 2008, but Gibson did not file this application until October 9, 2008. Consequently, this application is untimely, and we lack jurisdiction to consider it.

Gibson relies on a September 5, 2008, order of the trial court granting an extension of time to file his appeal. Although we acknowledge that Gibson's application would be considered timely filed based on the terms of the extension order, the trial court lacked the statutory authority to grant an extension of time for Gibson to file an application for appeal in this court. See OCGA § 5-6-39 (a); *Rosenstein v. Jenkins*, 166 Ga. App. 385 (304 SE2d 740) (1983). Gibson's untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.

LC#  
08V0203

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* OCT 30 2008

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

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



*Will L. Mat...*

, Clerk.

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

ATLANTA,            NOVEMBER 18, 2008

*The Court of Appeals passed the following order*

Case No. A09D0087

ROBERT S. GIBSON V. DANA FREEMAN F/K/A DANA GIBSON  
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 NOV 18, 2008*

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      OCTOBER      28, 2008

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

APPLICATION NO.            A09D0088  
TBF FINANCIAL, LLC V. DERRICK HOUSTON ET AL

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

90008

07SV01824



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

**OCT 28 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

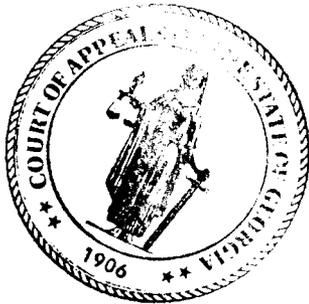
ATLANTA,                      OCTOBER        28, 2008

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

APPLICATION NO.            A09D0089  
TBF FINANCIAL, LLC V. DERRICK HOUSTON ET AL

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

90009  
07SV01825



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

**OCT 28 2008**

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

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

Clerk.

*Will. L. Martin*

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

ATLANTA, NOVEMBER 07, 2008

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

APPLICATION NO. A09D0090  
LEGACY HOMES OF GEORGIA, LLC ET AL V. DEKALB COUNTY,  
GEORGIA ET AL

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

93008

07CV3736



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **NOV 07 2008**

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

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

*Clerk.*

*Willie L. Martinez*

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

ATLANTA,            OCTOBER    31, 2008

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

APPLICATION NO.            A09D0091  
DEIRDRE DAVANE V. MICHAEL L. THURMOND, COMMISSIONER  
OF LABOR FOR THE STATE OF GEORGIA, ET AL

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

91008

2008CV152291



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

**OCT 31 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, NOVEMBER 05, 2008

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

APPLICATION NO. A09D0092  
BART L. GRAHAM V. FRANK J. HANNA, 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.

97008

2007CA32851



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 05 2008**

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

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

*Clerk.*

*Willie L. Martinez*

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

ATLANTA,            OCTOBER    31, 2008

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

APPLICATION NO.            A09D0093

SHARMAN WHITE V. PROFESSIONAL STANDARDS COMMISSION

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

70008

2006CV117507



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **OCT 31 2008**

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

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

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

NOV 13 2008

**A09D0094. ANNIE WATERS STEPHENS v. PLEDGED PROPERTY II, LLC.**

Annie Waters Stephens seeks to appeal the grant of summary judgment on her counterclaim in this dispossessory action brought by Pledged Property II, LLC. Under OCGA § 44-7-56, appeals in dispossessory actions must be filed within seven days after entry of the order at issue. Stephens filed her application 30 days after the order granting summary judgment. She contends that her application is timely because she is appealing the ruling on her counterclaim, not the grant of possession to Pledged Property.

This action, however, remains a dispossessory proceeding even in the context of the grant of summary judgment on Stephens's counterclaim. Possession is still an issue, evidenced by the fact that the superior court ordered Stephens to pay rent into the court registry should she appeal the grant of summary judgment. *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Compare *America Net, Inc. v. U.S. Cover, Inc.*, 243 Ga. App. 204 (532 SE2d 756) (2000) (the seven-day time limitation of OCGA § 44-7-56 for filing an appeal did not apply in an action begun as a dispossessory proceeding, where the issue of possession was resolved by agreement and the payment of rent into the trial court was suspended, leaving only the issues of unpaid rent and breach of the lease contract).

Because this case is still a dispossessory action and Stephens did not file her application within seven days, this application is hereby **DISMISSED**.

LC#

2007CV128306



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 13 2008**

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

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

*Will. L. Martinez*, Clerk.

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

ATLANTA,                      OCTOBER      23, 2008

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

APPLICATION NO.            A09D0095

IN THE INTEREST OF: T. L. H. AND O. D. H. , CHILDREN (MOTHER)

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

92008

0800980



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

**OCT 23 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, NOVEMBER 04, 2008

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

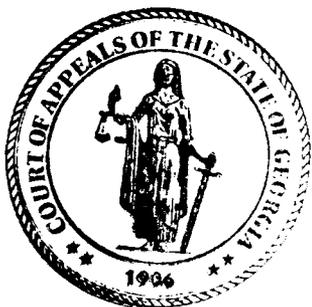
APPLICATION NO. A09D0096

RICHARD SKINNER ET AL V. MOUNTAIN TARP AND AWNING, INC

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

94008

05SCV1007



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **NOV 04 2008**

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

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

Clerk.

*Will L. Martinez*

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

ATLANTA,                      OCTOBER      29, 2008

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

APPLICATION NO.            A09D0097  
CHRISTOPHER EUGENE CARR V. THE STATE

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

99008

2008CR107



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

**OCT 29 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      OCTOBER      30, 2008

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

APPLICATION NO.            A09D0098

LORENZO HAIRE V. THE STATE

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

95009

2008CR113



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*    **OCT 30 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

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

OCT 30 2008

**A09D0099. ANTHONY YOUNG v. THE STATE.**

Anthony Young was convicted of murder. Many years later, he filed an extraordinary motion for new trial, which the superior court denied. Young now seeks discretionary review. In *State v. Thornton*, 253 Ga. 524 (1) (322 SE2d 711) (1984), the Supreme Court directed that we transfer appeals from all murder convictions to that Court. Accordingly, this application is TRANSFERRED to the Supreme Court.

LC#  
83CR035

*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.*

OCT 30 2008

*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, NOVEMBER 03, 2008

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

APPLICATION NO. A09D0100  
ROBERT FRANK SMITH V. EVANS GROCERY ET AL

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

98009

2001F1225



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 03 2008**

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

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

*Will L. [Signature]*

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

ATLANTA,                      NOVEMBER 17, 2008

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

APPLICATION NO.            A09D0101

ANTHONY AARON V. THE STATE

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

93009

CR051443



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

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

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

Clerk.

*Willi L. Martin*

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

ATLANTA,            DECEMBER 12, 2008

*The Court of Appeals passed the following order*

Case No. A09D0101

ANTHONY AARON 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    DEC 12, 2008*

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

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

Clerk.

*Will. L. Martin*

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:** January 02, 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 **S09C0633**

ANTHONY AARON v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0101

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

JAN 06 2009

Clerk, Court of Appeals of Georgia

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0102. ANTONIO ETCHINSON v. THE STATE.**

Antonio Etchinson filed this application for discretionary appeal on October 17, 2008, seeking an appeal from an order dismissing his extraordinary motion for new trial. The order Etchinson seeks to appeal is dated March 30, 2007. Etchinson contends that the trial court “backdated” this order. On the contrary, it appears that the March 30, 2007 order dismisses Etchinson’s March 29, 2007 extraordinary motion for new trial, not the extraordinary motion for new trial Etchinson unsuccessfully attempted to file in September 2008, as he contends.

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. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Etchinson filed his application 567 days after the order he seeks to appeal. The application is untimely and is therefore **DISMISSED** for lack of jurisdiction.

LC#  
99CR207



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **NOV 07 2008**

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

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

*Willie L. Mat... A*

, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

NOV 05 2008

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

## **A09D0103. JAMIE SHEFFIELD v. WAL-MART STORES, INC., ET AL.**

On September 12, 2008, the superior court affirmed a decision of the Appellate Division of the State Board of Worker's Compensation denying Jamie Sheffield's claim for benefits. On October 14, 2008, this Court received Sheffield's application for discretionary review of the superior court's order. The application was not accepted for filing, however, because it did not include the requisite filing fee. 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 30 (c). The filing fee was received by this Court, and the application was filed and docketed, on October 20, 2008.

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. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Sheffield's application was filed 38 days after the order she seeks to appeal. Sheffield's untimely application for appeal is therefore *DISMISSED* for lack of jurisdiction.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* NOV 05 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.*

*William L. Martin*, Clerk.

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

ATLANTA,            DECEMBER 08, 2008

*The Court of Appeals passed the following order*

Case No. A09D0103

JAMIE SHEFFIELD V. WAL-MART STORES, INC., 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    DEC 08, 2008*

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

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

*Clerk.*

*Will. L. Martin*

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:** December 29, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0615**

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

Clerk, Supreme Court of Georgia

Case No. A09D0103

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

sent to S. C.  
JAN 05 2009

Clerk, Court of Appeals of Georgia

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

ATLANTA,                      NOVEMBER 06, 2008

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

APPLICATION NO.            A09D0104  
EVELYN ZARATE ET AL V. CAROL COUCH, DIRECTOR ENVIROMENTAL  
PROTECTION DIVISION ET AL

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

70009

2008CV152066



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 06 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, NOVEMBER 13, 2008

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

APPLICATION NO. A09D0105  
LESLIE BAUMAN V. STUART FRASER HUMPHRIES

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

71009

2008SUCV2904



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 13 2008**

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

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

*Clerk.*

*Willie L. Martin*

7

# Court of Appeals of the State of Georgia

ATLANTA,

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

NOV 06 2008

**A09D0106. MARY REBECCA TAYLOR v. DELACY CURL, II.**

This application for discretionary review is **GRANTED**. Applicant Mary Rebecca Taylor shall have 10 days from the date of this order in which to file a notice of appeal. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this Court.

The parties are directed to address in their appellate briefs the issue of whether Taylor properly filed an application for discretionary appeal or whether she was entitled to file a notice of appeal. See generally OCGA §§ 5-6-34 (a) (11), 5-6-35 (a) (2). See also *Rebich v. Miles*, 264 Ga. 467, 469 (448 SE2d 192) (1994).

LC#

08CV73076



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

NOV 06 2008

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

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

*William L. Martinez*

, Clerk.

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

ATLANTA, NOVEMBER 06, 2008

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

APPLICATION NO. A09D0106  
MARY REBECCA TAYLOR V. DELACY CURL, II

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.

92009

08CV73076



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

NOV 06 2008

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA,                      NOVEMBER 07, 2008

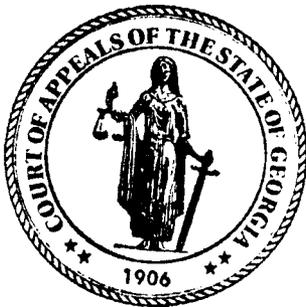
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0107  
COSTCO WHOLESALE ET AL V. JEFFREY RAMSDELL

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

94009

2008CV152726



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 07 2008**

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

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

*Clerk.*

*Will. L. Martin*

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

ATLANTA,                      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.*

*W. 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:** December 15, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0500**

**COSTCO WHOLESALE et al. v. JEFFREY RAMSDELL**

Clerk, Supreme Court of Georgia

Case No. A09D0107

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

DEC 17 2008

Clerk, Court of Appeals of Georgia

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

ATLANTA,                      NOVEMBER 12, 2008

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

APPLICATION NO.            A09D0108

PETRA DIXON V. DAVID M. DIXON

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

99009

08V872



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*            **NOV 12 2008**

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

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

Clerk.

*Will. L. Martinez*

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

ATLANTA,                      NOVEMBER 19, 2008

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

APPLICATION NO.            A09D0109  
HUTSON PLUMBING COMPANY ET AL V. GARY NOBLES

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

95010

CV082014



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **NOV 19 2008**

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

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

*Clerk.*

*Will L. Martinez*

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

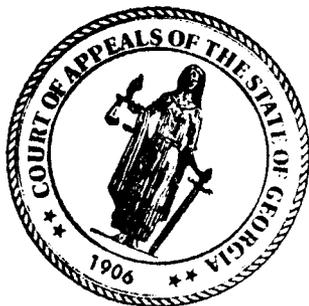
ATLANTA,                      DECEMBER 17, 2008

*The Court of Appeals passed the following order*

Case No. A09D0109

HUTSON PLUMBING COMPANY ET AL V. GARY NOBLES

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    DEC 17, 2008*

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

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

*Clerk.*

*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:** January 06, 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 **S09C0656**

Hutson Plumbing Company et al. v. Gary Nobles

Clerk, Supreme Court of Georgia

Case No. A09D0109

Court of Appeals of Georgia

JAN 07 2009

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA, NOVEMBER 21, 2008

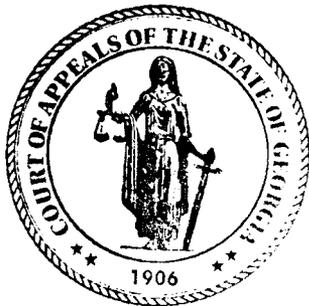
*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0110  
DERRICK KINGSLEY WALKER V. THE STATE

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

96010

SU98CR1141



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 21 2008**

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

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

*Clerk.*

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

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

ATLANTA, NOVEMBER 12, 2008

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

APPLICATION NO. A09D0111

THE KROGER COMPANY ET AL V. TOMMY J. WILSON

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

98010

2008CV03343



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 12 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA, NOVEMBER 17, 2008

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

APPLICATION NO. A09D0112  
HECTOR MANUEL GARCIA V. THE STATE

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

90010

51605



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

**NOV 17 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA, NOVEMBER 13, 2008

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

APPLICATION NO. A09D0113  
TRAVIS DEON HENRY V. JAMESHIA L. BEACHAM

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

93010

04CV10967



*Court of Appeals of the State of Georgia*

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

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

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

Clerk.

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

NOV 06 2008

**A09D0114. GERALD KELLER v. THE STATE.**

Gerald Keller filed an application for discretionary appeal from an order denying his "Motion to Vacate and Set Aside Illegally Void Sentence." Keller contends that the trial court's modification of his sentence is void. Because the discretionary appeal procedure does not apply to the type of order complained of here, Keller's application is **GRANTED**. OCGA § 5-6-35 (j).

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

LC#  
05T5550



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

NOV 06 2008  
*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

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

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, NOV 17 2008

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

## **A09D0115. IN THE INTEREST OF: A. C., A CHILD (FATHER).**

The biological father of A. C. seeks discretionary review of the juvenile court's order terminating his parental rights. Among other arguments, the father challenges the constitutionality of OCGA § 5-6-35 (a) (12), which requires an application for discretionary appeal from an order terminating parental rights. The Supreme Court has exclusive appellate jurisdiction over all cases in which the constitutionality of a statute is called into question. See Ga. Const. Art. VI, Sec. VI, Par. II (1). "[I]n order to invoke that jurisdiction, the record must show that the trial court specifically passed on the constitutional issue." *Fulton County v. Galberaith*, 282 Ga. 314, 315 (1) (647 SE2d 24) (2007).

The father's application materials do not demonstrate that his constitutional challenge has been preserved for appellate review. Out of deference to the Supreme Court's appellate jurisdiction, however, this Court deems it appropriate to assume for present purposes that an unsuccessful constitutional challenge to the validity of OCGA § 5-6-35 (a) (12) was properly made and expressly denied, or that this issue has otherwise been preserved for potential appellate review.<sup>1</sup> We therefore TRANSFER this application to the Supreme Court for disposition.

LC#  
0108TP05078

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<sup>1</sup> As a practical matter, we question whether a challenge to the constitutionality of an *appellate* procedure can be litigated in a *trial* court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 17 2008**

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

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

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0116. MELVIN WILSON v. THE STATE.**

Melvin Wilson seeks to appeal the denial of his motion to withdraw guilty plea. An order denying a motion to withdraw a guilty plea filed within the same term of court as the plea is directly appealable.<sup>1</sup> *Carter v. Johnson*, 278 Ga. 202 (599 SE2d 170) (2004). This application is therefore **GRANTED** under OCGA § 5-6-35 (j). Wilson shall have ten days from the date of this order to file a notice of appeal with the superior court. The clerk of the superior court is directed to include a copy of this order in the appeal record transmitted to this court.

LC#  
07CR939



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

**NOV 06 2008**

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

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

*Willie L. Martin*, Clerk.

---

<sup>1</sup>From the limited materials included with the application, it is not clear when Wilson entered his plea or filed his motion. Should it be determined from the appeal record that procedural defects bar the appeal, then the appeal will be dismissed as having been improvidently granted.

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

ATLANTA, NOVEMBER 13, 2008

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

APPLICATION NO. A09D0117

IN THE INTEREST OF: T. L. H. , O. D. H. , CHILDREN (FATHER)

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

71010

0800980



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 13 2008**

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

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

Clerk.

*Willie L. Mat... [Signature]*

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

ATLANTA, NOVEMBER 25, 2008

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

APPLICATION NO. A09D0118

IN THE INTEREST OF: X. B. , CHILD (FATHER)

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

92010

07CV6455



*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.*

*Will L. Martinez*

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

ATLANTA,                      NOVEMBER 25, 2008

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

APPLICATION NO.            A09D0119  
CHANG SOP CHONG V. REEBAA CONSTRUCTION CO., INC

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

94010

03C12398



*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.

*Will. L. Martin*

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

ATLANTA,                      NOVEMBER 20, 2008

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

APPLICATION NO.            A09D0120

CORY ALDEN HULL A/K/A COREY ELDEN HULL V. THE STATE

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

99010

2008CR35



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

**NOV 20 2008**

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

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

*W. L. Martin*  
Clerk.

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

ATLANTA,            DECEMBER 02, 2008

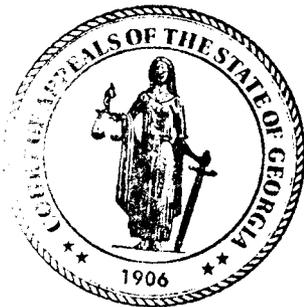
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0121  
NATIONAL CARRIERS, INC., V. MICHAEL L. THURMOND,  
COMMISSIONER OF GEORGIA DEPARTMENT OF LABOR

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

95011

2008CV149891



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **DEC 02 2008**

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

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

*Clerk.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

NOV 25 2008

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

**A09D0122. RUTH ANN LIZANA-JACKSON v. STATE OF GEORGIA ET AL.**

Ruth Ann Lizana-Jackson filed this application for discretionary appeal in the Supreme Court of Georgia, which found that it lacked jurisdiction and thus transferred the application here. As the Supreme Court observed, although Lizana-Jackson indicates that she seeks to appeal a September 11, 2008 ruling, the most recent ruling included in the application is an order entered January 23, 2008 establishing visitation with her children. Lizana-Jackson filed her application September 22, 2008, 243 days after the entry of the January 23 order.

An application for discretionary appeal must be filed within 30 days of the entry of the order complained of. OCGA § 5-6-35 (d). Since Lizana-Jackson did not timely file her application, the application is **DISMISSED** for lack of jurisdiction. *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC#

07CV4364, 07CV4365



*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. McIntire*, Clerk.

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

ATLANTA,                      NOVEMBER 25, 2008

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

APPLICATION NO.            A09D0123  
ALAN MILLS V. AITKENS & AITKENS, P.C.

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

98011

08104356



*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.

*Willie L. Martin*

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

ATLANTA,            DECEMBER 11, 2008

*The Court of Appeals passed the following order*

Case No. A09D0123

ALAN MILLS V. AITKENS & AITKENS, P.C.

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    DEC 11, 2008*

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

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

*Clerk.*

*Willie L. Martin*

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:** December 30, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0621**

ALAN L. MILLS v. AITKENS & AITKENS, P.C.

Clerk, Supreme Court of Georgia

Case No. A09D0123

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to SC.  
JAN 05 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0621

Atlanta, March 9, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

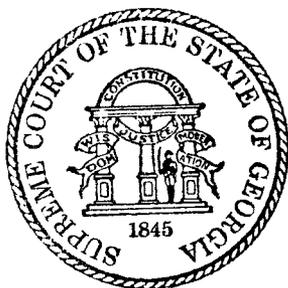
ALAN L. MILLS v. AITKENS & AITKENS, P.C.

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. A09D0123

RECEIVED IN OFFICE  
09 MAR 25 PM 12:11  
Clerk/Court Administrator  
Court of Appeals of GA  
*[Signature]*



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta March 24, 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.

*[Signature]* Clerk.

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

ATLANTA,            DECEMBER 04, 2008

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

APPLICATION NO.        A09D0124

TERESA ZAPATA-BRETADO, AS MOTHER AND NEXT FRIEND  
OF MADELINE FERNANDA BONILLA ZAPATA ET AL V. TAMMY  
CURRY D/B/A CHILDERS CONSTRUCTION CO

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

90011

2008CV152701



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 04 2008**

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

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

*Clerk.*

*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:** December 18, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0572**

TERESA BRETADO, b/n/f v. TAMMY CURRY, d/b/a CHILDERS  
CONSTRUCTION COMPANY et al.

Clerk, Supreme Court of Georgia

Case No. A09D0124

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**DEC 23 2008**

Clerk, Court of Appeals of Georgia

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

ATLANTA, DECEMBER 04, 2008

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

APPLICATION NO. A09D0124

TERESA ZAPATA-BRETADO, AS MOTHER AND NEXT FRIEND  
OF MADELINE FERNANDA BONILLA ZAPATA ET AL V. TAMMY  
CURRY D/B/A CHILDERS CONSTRUCTION CO

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

90011

2008CV152701

RECEIVED IN OFFICE  
2008 NOV -7 PM 3:31  
CIVIL RIGHTS DIVISION



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

DEC 04 2008

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

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

Clerk.

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

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0572

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

TERESA BRETADO, b/n/f v. TAMMY CURRY, d/b/a CHILDERS  
CONSTRUCTION COMPANY 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, \$80.00  
Court of Appeals Case No. A09D0124

MAY 11 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.

*Leannette Erickson, Deputy* Clerk.

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

ATLANTA,            DECEMBER 01, 2008

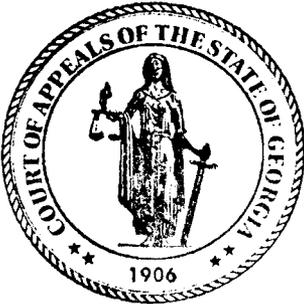
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0125  
HOMEOWNERS MORTGAGE OF AMERICA, INC., ET AL V. CHASE  
HOME FINANCE, LLC., ET AL

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

93011

07VS120939



*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta    **DEC 01 2008**

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,                      DECEMBER    01, 2008

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

APPLICATION    NO.                      A09D0126

PATRICIA A. ROYAL V. CHATHAM COUNTY BOARD OF TAX ASSESSOR

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

91011

CV050343



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 01 2008**

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

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

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* JAN 20 2009

**A09D0127. ERIC ROBERT WARTELL v. BETH RENEE WARTELL.**

Eric Robert Wartell filed an application for discretionary review in the Supreme Court. The Supreme Court transferred the application here, finding that it lacked jurisdiction over the subject matter. We then dismissed the application as untimely because it was filed more than 30 days after entry of the order sought to be appealed. See OCGA § 5-6-35 (d).

Wartell has now filed a motion for reconsideration. He states that before the Supreme Court transferred the case to this Court, it granted him a 20-day extension for filing the application. In light of that extension, Wartell maintains that his application was timely. Because the Supreme Court lacked subject matter jurisdiction, however, any action it took on the application – including granting an extension for filing – was a nullity. See *Deans v. Deans*, 164 Ga. 162, 164 (1) (137 SE 829) (1927) (“When a court has no jurisdiction of a subject-matter, the whole proceeding is . . . void.”); *Estate of Alberta Norton v. Hinds*, 182 Ga. App. 35, 36 (354 SE2d 663) (1987) (where court lacked subject matter jurisdiction, “all of the proceedings . . . were null and void.”); see also OCGA § 9-12-16.

This Court has no authority to grant extensions of time for filing applications for discretionary appeal. See *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 Rule 16 (c). Because Wartell’s application was not timely filed, we lack jurisdiction to consider it. See *Wilson*, *supra*. Accordingly, Wartell’s motion for reconsideration is DENIED.

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

JAN 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,

*The Court of Appeals hereby passes the following order:* **NOV 13 2008**

**A09D0128. MERRIWETHER v. GERMANY-JONES.**

John Merriwether filed an application for discretionary appeal in this Court seeking an appeal from an order that, among other things, found him in contempt of the child support provisions of the parties' final divorce decree. We transferred the application to the Supreme Court because "an 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*, 278Ga. 287, 288 (1) (602 SE2d 582) (2004).

After the Supreme Court denied the application, the superior court entered an order adjudging the prior contempt order to be in effect, directing the arrest of Merriwether, and ordering his incarceration until he purges himself of the contempt. Merriwether filed the instant application to challenge that order. For the same reasons as before, Merriwether's application is **TRANSFERRED** to the Supreme Court for disposition.

LC#  
0615535



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

**NOV 13 2008**

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

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

*Will L. Martin*

, Clerk.

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

ATLANTA,            DECEMBER 15, 2008

*The Court of Appeals passed the following order*

Case No. A09D0128

JOHN MERRIWEATHER V. ROBYN GERMANY-JONES

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    DEC 15, 2008*

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

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

*Clerk.*

*Willie L. Martin*

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

ATLANTA,            DECEMBER 01, 2008

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

APPLICATION NO.        A09D0129  
ZARIFA JAMES-DICKENS V. RALPH PETIT-COMPERE

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.

71011

07108837



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 01 2008**

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

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

*Clerk.*

*Willie L. Martin*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1030

Atlanta, May 18, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

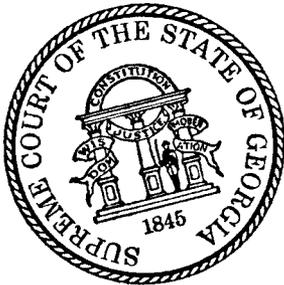
M.G. PATTON CONSTRUCTION COMPANY, INC., et al v. CHEROKEE COUNTY  
BOARD OF COMMISSIONERS

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. A09I0130

JUL 07 2009



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta July 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.

*Theresa A. ...*, Clerk.

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

ATLANTA,            DECEMBER 04, 2008

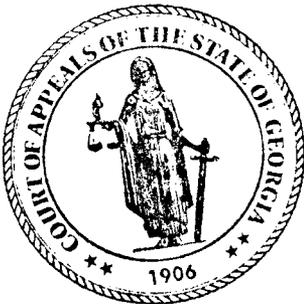
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0130  
DON E. MARKOWITZ V. THE GEORGIA DEPARTMENT OF  
HUMAN RESOURCES EX. REL., JULIE BARBER 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.

92011

C9989



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 04 2008**

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

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

Clerk.

*Willie L. Martin*

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

ATLANTA, NOVEMBER 26, 2008

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

APPLICATION NO. A09D0131

JULIA YEARWOOD V. GREENE COUNTY BOARD OF EDUCATION

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

94011

2008CV7



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**NOV 26 2008**

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

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

Clerk.

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0132. RONNIE LEE BRYAN v. THE STATE.**

Ronnie Lee Bryan filed a discretionary application seeking review of a superior court order denying his “pro se motion for extraordinary appeal based on newly discovered evidence.” He included a copy of the order with his application, but it was not a stamped “filed” copy as required by Court of Appeals Rule 31 (e).<sup>1</sup> On November 18, 2008, this Court ordered Bryan to supplement his application with a stamped “filed” copy of the order 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**.

LC#  
47257



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

**DEC 11 2008**  
*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

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

*Willie L. Martin* Clerk.

---

<sup>1</sup>Bryan did include with his application a stamped “filed” copy of an order denying his motion for out-of-time appeal. To the extent Bryan seeks to appeal that August 28, 2008 order, his October 14, 2008 application is untimely and therefore is invalid. OCGA § 5-6-35 (d).

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

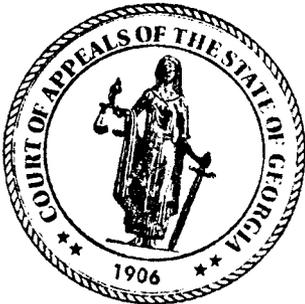
ATLANTA,            JANUARY    08, 2009

*The Court of Appeals passed the following order*

Case No. A09D0132

RONNIE LEE BRYAN 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    JAN 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.*

*Willi Z. Martz, Jr.*

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0133. IN RE: ESTATE OF JOHN LASLEY O'DELL.**

Carol Ann Woods and Thomas Marshall O'Dell filed a timely application for discretionary review from a superior court order awarding a year's support to the surviving spouse and minor child of John Lasley O'Dell. The superior court heard the matter after an appeal from the probate court. Appeals from decisions of superior courts reviewing decisions of probate courts are specifically excluded from the discretionary appeal requirements set forth in OCGA § 5-6-35 (a) (1). Thus, the superior court order is directly appealable. Accordingly, this application is GRANTED pursuant to OCGA § 5-6-35 (j). Applicants shall have ten days from the date of this order to file a notice of appeal with the superior court. The Clerk of the Superior Court is directed to include a copy of this order in the appeal record transmitted to this Court.

LC#  
08CV00196



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 02 2008**

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

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

*Willie L. Martin*, Clerk.

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

ATLANTA,            DECEMBER 02, 2008

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

APPLICATION NO.        A09D0134

MARCUS LEGERE 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.

96012

2008CR27

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 02 2008**

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

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

*Clerk.*



*Will. L. Martin*

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

ATLANTA,            DECEMBER 01, 2008

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

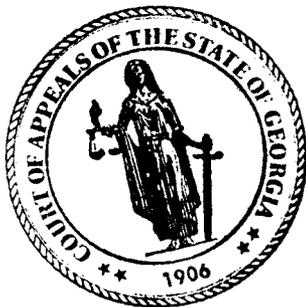
APPLICATION NO.        A09D0135

MATTHEW VEATS 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.

98012

2002CR70



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 01 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

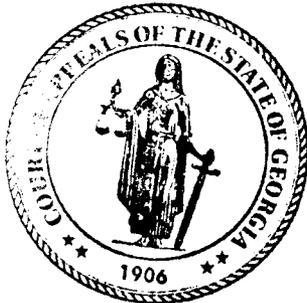
ATLANTA,

The Court of Appeals hereby passes the following order: **DEC 04 2008**

**A09D0136. SUNDAY N. UDOINYION v. REMAX OF ATLANTA ET AL.**

Sunday N. Udoinyion filed this discretionary application seeking to appeal the grant of the respondents' motion for post-judgment supersedeas bond. No provision of OCGA § 5-6-35 is applicable to this case. The order, therefore, is directly appealable, and Udoinyion's application for appeal is hereby *GRANTED* as required under OCGA § 5-6-35 (j). Udoinyion shall have ten days from the date of this order to file a notice of appeal with the Gwinnett State Court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.

LC#  
06C12270



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **DEC 04 2008**

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

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

*Will L. Martin*, Clerk.

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

ATLANTA,                    DECEMBER 12, 2008

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

APPLICATION NO.            A09D0137

U.S. SECURITY ASSOCIATES ET AL V. JANETTA BRAMLETT ET AL

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

93012

2008CV156237



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 12 2008**

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

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

*Clerk.*

*Will. L. Martin*

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:** December 31, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0613**

U.S. SECURITY ASSOCIATES, INC., et al. v. JANETTA BRAMLETT et al.

Clerk, Supreme Court of Georgia

Case No. A09D0137

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to S.L.

JAN 05 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0613

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

U.S. SECURITY ASSOCIATES, INC., et al. v. JANETTA BRAMLETT 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, \$80.00  
Court of Appeals Case No. A09D0137

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 E. Linton*, Deputy Clerk.

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

ATLANTA,                    DECEMBER 04, 2008

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

APPLICATION NO.            A09D0138  
TRUCKS, INC., ET AL V. MARION TROWELL

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.

91012  
0813694



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 04 2008**

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

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

*Clerk.*

*Willi L. McIntosh*

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

ATLANTA,            DECEMBER 11, 2008

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

APPLICATION NO.        A09D0139  
CHRISTIAN ALLEN V. THE STATE

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

97012

03CR115



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 11 2008**

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

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

Clerk.

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA ,

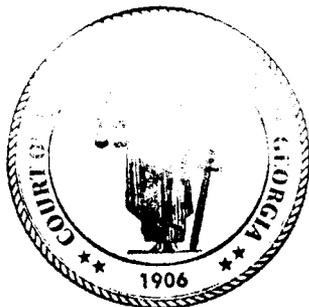
*The Court of Appeals hereby passes the following order:*      **DEC 11 2008**

AO9D0140. THOMAS J. GRIFFIN v. LAWYERS TITLE INSURANCE CORPORATION ET AL .

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

70-012

08GR046544



*Court of Appeals of the State of Georgia*

*Clerk's Office,*

**DEC 11 2008**

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

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

*Willie L. Martinez*, Clerk.

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

ATLANTA,                      DECEMBER 19, 2008

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

APPLICATION NO.            A09D0141  
RONNIE LAMAR SPRAYBERRY V. THE STATE

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

71012

05CR30758R1



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 19 2008**

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

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

*Clerk.*

*Will L. Martinez*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1110

Atlanta, June 29, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

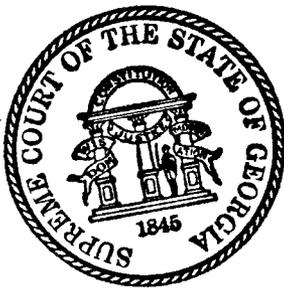
BENECKI CUSTOM HOMES, LLC v. ATLOON PROPERTIES, LLC.

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. A09I0142

RECEIVED IN OFFICE  
2009 AUG 10 PM 2:13  
CLERK'S OFFICE  
SUPREME COURT OF GEORGIA



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta August 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.

*Theresa S. Bann*, Clerk.

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

ATLANTA,            DECEMBER 12, 2008

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

APPLICATION NO.        A09D0142  
WAL-MART STORES, INC., ET AL V. POLLY MCREADY

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

92012

2008S08801



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*    **DEC 12 2008**

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

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

Clerk.

*Willie L. Martin*

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

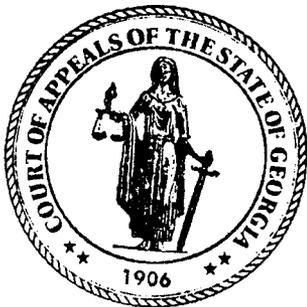
ATLANTA,            JANUARY    08, 2009

*The Court of Appeals passed the following order*

Case No. A09D0142

WAL-MART STORES, INC., ET AL V. POLLY MCREADY

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    JAN 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.*

*Willi Z. Mart*

# Court of Appeals of the State of Georgia

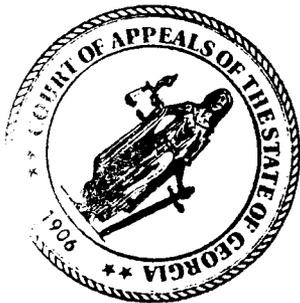
ATLANTA,

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

**A09D0143. MURRAY v. THE STATE.**

William Murray was found guilty of numerous offenses, including driving under the influence and being a habitual violator, and the trial court sentenced him on September 16, 2008. On November 20, 2008, Williams, proceeding pro se, filed an application for discretionary appeal, challenging his conviction. Such order is directly appealable and requires no application.<sup>1</sup> Ordinarily, this Court would grant such application in accordance with OCGA § 5-6-35 (j). However, Williams was required to file his appeal within 30 days after the entry of the appealable order.<sup>2</sup> Accordingly, the application is untimely, and the appeal must be dismissed for lack of jurisdiction.<sup>3</sup>

LC#  
07CR2087



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **DEC 11 2008**

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

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

*Willi L. Martin* Clerk.

---

<sup>1</sup> See OCGA §§ 5-6-34 (a) (1) & 5-6-35 (a).

<sup>2</sup> See OCGA § 5-6-38.

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

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

ATLANTA,            JANUARY    14, 2009

*The Court of Appeals passed the following order*

Case No. A09D0143

WILLIAM TERRENCE MURRAY 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    JAN 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,

*The Court of Appeals hereby passes the following order:* **FEB 10 2009**

**A09D0143. MURRAY v. THE STATE.**

William Murray, pro se, sought to appeal his criminal convictions. His application for discretionary appeal was dismissed because he failed to file his request in a timely manner.<sup>1</sup> After we denied his motion for reconsideration, Murray filed a “Supplement to Motion for Reconsideration” in which he asserted, inter alia, that his trial counsel had disregarded his request to file an appeal. To the extent that the document filed by Murray constitutes a second motion for reconsideration, such motion is unauthorized and is hereby DENIED.<sup>2</sup>

Because Murray was represented by an attorney who allegedly failed to pursue an appeal, Murray may be entitled to an out-of-time appeal.<sup>3</sup> Accordingly, if Murray still wishes to appeal, he may petition the trial court for leave to file an out-of-time appeal. If the trial court enters an order granting his request, he will have 30 days from the filing date of that order to file a notice of appeal referencing his conviction. If the trial court enters an order denying the request, Murray will have 30 days from the filing date of that order to appeal the denial of his request for an out-of-time appeal.

---

<sup>1</sup> Although he was entitled to a direct appeal, Murray filed an application for discretionary appeal.

<sup>2</sup> See Court of Appeals Rule 37 (d) “No party shall file a second motion for reconsideration unless permitted by order of the Court.”

<sup>3</sup> See *Rowland v. State*, 264 Ga. 872, 875 (452 SE2d 756) (1995).



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

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

**A09D0144. MAURICE GOODMAN v. THE STATE.**

Maurice Goodman filed this application for discretionary appeal to challenge the revocation of his probation. Goodman states that he is appealing from the order entered September 17, 2008, but that order simply scheduled a hearing on the petition to revoke Goodman's probation. Even if Goodman could challenge such an order, his application is ineffective to do so. 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. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Goodman's November 22, 2008 application was filed 66 days after the September 17, 2008 order and is thus untimely. Goodman's application is also untimely from the October 7, 2008 order revoking his probation. This untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.

LC#  
02CR0016



*Court of Appeals of the State of Georgia*

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

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

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

*Willie L. Mat... Clerk.*

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

ATLANTA,            DECEMBER 17, 2008

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

APPLICATION NO.            A09D0145  
IN THE INTEREST OF: B. R. , K. R. , V. X. , & B. A. R. ,  
CHILDREN (MOTHER)

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

95013

03908J88



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **DEC 17 2008**

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

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

*Clerk.*

*Will L. Martin*

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

ATLANTA,                    DECEMBER 11, 2008

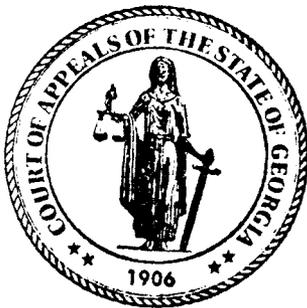
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0146  
CONNIE STARKS V. ATLANTA PUBLIC SCHOOL SYSTEM

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

96013

2006CV119763



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 11 2008**

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

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

*Clerk.*  
*Willie L. Martin*

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

ATLANTA,            DECEMBER 10, 2008

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

APPLICATION NO.            A09D0147  
JARROD HARRELL V. THE GEORGIA DEPARTMENT OF HUMAN  
RESOURCES, EX REL. JARROD MILES HARRELL

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.

98013

0711133733



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 10 2008**

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

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

*Clerk.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

**DEC 16 2008**

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

**A09D0148. GLENN A. DAVIS v. JUDY ANN DAVIS.**

Glenn A. Davis has filed an application for discretionary appeal from an order awarding attorney fees in this action to modify alimony. Davis advises that "out of an abundance of caution," he has filed his application in both the Georgia Supreme Court and this court. It is neither necessary nor useful to present identical applications to this court and to the Supreme Court. Under these circumstances this court will not consider even the preliminary matter of which appellate court has jurisdiction to consider the application. We instead defer to the Supreme Court, which has the same issues before it in its Application No. S09D0416. Because this application is pending before the Supreme Court, Davis's 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 to this court.

LC#  
06A08569



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 16 2008**

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

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

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

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* FEB 02 2009

**A09D0148. GLENN A. DAVIS v. JUDY ANN DAVIS.**

Glenn A. Davis seeks reconsideration of the dismissal of his application for discretionary appeal from an order awarding attorney fees in an action to modify alimony. Davis filed his discretionary application in both the Georgia Supreme Court and this court. Deferring to the Supreme Court, which had the same issues before it in its Application No. S09D0416, we dismissed Davis's application in this court, noting that should the Supreme Court conclude that this court had appellate jurisdiction over the application, we would address the application upon transfer to this court.

Davis contends that we should reconsider our order of dismissal because the Supreme Court denied his application, ruling that it did not have jurisdiction. In fact, the Supreme Court determined that Davis's application did not fall within its pilot project under which it automatically grants applications from final judgments in divorce and alimony cases, and it denied the application on the merits.

The "Supreme Court has a duty to raise the question of its jurisdiction in all cases in which there may be any doubt regarding the existence of such jurisdiction." *Powell v. City of Snellville*, 275 Ga. 207 (563 SE2d 860) (2002). It has "ultimate responsibility for construing the constitutional provisions regarding appellate jurisdiction" and its determinations result "in a binding and conclusive determination of the jurisdiction of the Court of Appeals." *Saxon v. Coastal Dialysis & Medical Clinic, Inc.*, 267 Ga. 177, 178 (476 SE2d 587) (1996).

Had the Supreme Court determined that we had jurisdiction, it would have transferred the application to this court. Supreme Court of Georgia Rule 35. See also

OCGA § 5-6-37. Its denial of the application was an adjudication on the merits and is res judicata. *Northwest Soc. & Civic Club, Inc. v. Franklin*, 276 Ga. 859 (583 SE2d 858) (2003); *Hook v. Bergen*, 286 Ga. App. 258 (649 SE2d 313) (2007). The Court's resolution of the merits necessarily means that the Court determined that it, not we, had jurisdiction over Davis's application.

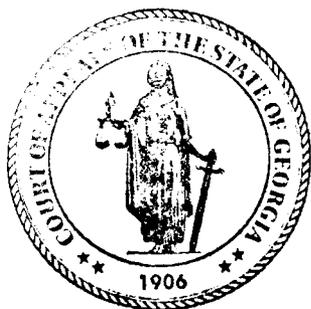
Therefore, Davis's motion for reconsideration of the dismissal of his application for discretionary appeal is **DENIED**.

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

**FEB 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,                      DECEMBER 18, 2008

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

APPLICATION NO.            A09D0149

PHYLLIS G. LOCK V. ANNA HOSPITALITY, LLC

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

93013

08CV03647

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 18 2008**

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

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

*Clerk.*



*Willi L. Martz, Jr.*

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

ATLANTA,            DECEMBER 15, 2008

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

APPLICATION NO.        A09D0150  
DAVID RALPH PARKER ET AL V. BRANCH BANKING & TRUST CO.,  
SUCCESSOR BY MERGER TO BANK OF DANIELSVILLE, ET AL

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

91013

04MV863



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 15 2008**

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

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

*Clerk.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

## **A09D0151. GEORGIA DEPARTMENT OF COMMUNITY HEALTH v. TOMIKA GRIMES.**

After an administrative law judge ruled that Tomika Grimes was eligible for certain medical assistance, the Georgia Department of Human Resources appealed that decision to the Commissioner of the Georgia Department of Community Health (“DCH”). The Commissioner reversed the administrative law judge. Grimes then sought review in the superior court, which reversed and reinstated the administrative law judge’s decision. The court held that the Department of Human Resources had no right to appeal the administrative law judge’s decision under the Georgia Medical Assistance Act, OCGA §§ 49-4-140 et seq., and that Grimes was entitled to medical assistance. DCH now seeks discretionary review in this Court. According to its application, however, DCH “does not wish to appeal” the portion of the superior court’s order finding Grimes eligible for assistance. Rather, DCH seeks to appeal only the portion of the order holding that it has no statutory right to appeal an adverse decision by the administrative law judge.

This Court’s jurisdiction extends only to cases involving an “actual controversy.” *In the Interest of I. B.*, 219 Ga. App. 268, 270 (464 SE2d 865) (1995). “A controversy is justiciable when it is definite and concrete, rather than being hypothetical, abstract, academic, or moot.” *Id.* Because DCH has effectively conceded that Grimes is eligible for benefits, no justiciable controversy remains. DCH seeks, in essence, an advisory opinion that it has a right to appeal adverse decisions by administrative law judges. This Court, however, is not empowered to issue advisory opinions. See *Baker v. City of Marietta*, 271 Ga. 210, 213-215 (1) (518

SE2d 879) (1999). Accordingly, this application is DISMISSED as moot.

LC#  
2008CV145927

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

**DEC 17 2008**

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

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



*Will L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA ,

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

AO9D0152. THE CITY OF ATLANTA ET AL v. DONALD S. AZAR

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

70-013

2007CV134979



*Court of Appeals of the State of Georgia*

*Clerk's Office,*

**DEC 12 2008**

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

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

*Willie L. Martin* , Clerk.

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

ATLANTA,                    DECEMBER 18, 2008

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

APPLICATION NO.            A09D0153

IN RE: B. C. , JR. , A CHILD (MOTHER)

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

71013

08JV0353



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 18 2008**

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

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

*Clerk.*

*Willi Z. Mart...*

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

ATLANTA,            DECEMBER 23, 2008

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

APPLICATION NO.        A09D0154  
MELTPRO, INC., V. MELTONUS, INC., ET AL

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

92013

B07CV1271



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 23 2008**

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

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

*Clerk.*

*Willi Z. Mart*

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

ATLANTA,            JANUARY    08, 2009

*The Court of Appeals passed the following order*

Case No. A09D0154

MELTPRO, INC., V. MELTONUS, INC., 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    JAN 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 Z. Mantz*

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:** January 21, 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 **S09C0735**

**MELTPRO, INC. v. MELTONUS, INC., et al.**

Clerk, Supreme Court of Georgia

**JAN 23 2009**

Case No. A09D0154

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

92

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0735

Atlanta, April 20, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MELTPRO, INC. v. MELTONUS, 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.

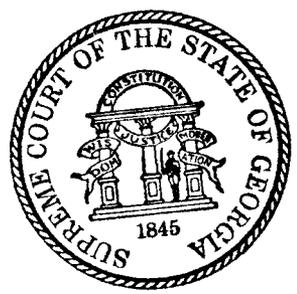
All the Justices concur.

Bill of Costs, \$80.00  
Court of Appeals Case No. A09D0154

RECEIVED IN OFFICE  
09 MAY 14 AM 11:55  
CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GEORGIA

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 13, 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 Eichen*, Deputy Clerk.

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

ATLANTA,            DECEMBER 11, 2008

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

APPLICATION NO.        A09D0155

MARION MCGAULEY V. PHIL MILLER DOUGLAS CO SHERIFF'S  
OFFICE

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

94013

07CV04487



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 11 2008**

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

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

*Clerk.*

*Willie L. Martin*

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:** December 23, 2008

To the Clerk of the Court of Appeals of Georgia:

You are hereby notified that there has been filed in this office on this day a petition to the Supreme Court for a writ of certiorari to the Court of Appeals in the case of **S09C0577**

MARION McGAULEY v. PHIL MILLER, SHERIFF

Clerk, Supreme Court of Georgia

DEC 23 2008

Case No. A09D0155

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

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

ATLANTA,            DECEMBER 18, 2008

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

APPLICATION NO.            A09D0156

CORNELIUS MARTIN, JR. V. JAMES DONALD, COMMISSIONER

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

99013

NONE



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 18 2008**

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

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

*Clerk.*

*Willi L. Martin, Jr.*

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

ATLANTA,            DECEMBER 24, 2008

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

APPLICATION NO.        A09D0157  
THE KROGER COMPANY ET AL V. WANDA JONES

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

95014

08CV4875



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

**DEC 24 2008**

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

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

Clerk.

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0158. HILL v. THE ESTATE OF SARAH SMITH.**

Preston Hill filed both an application for discretionary appeal and a notice of appeal. As the issue on appeal does not fall within the ambit of OCGA § 5-6-35, it does not require an application, and the direct appeal was thus docketed in this Court as Case Number A09A0753. Accordingly, the application for discretionary appeal is hereby DISMISSED.

LC#  
CV20080199



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

**DEC 30 2008**

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

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

*Will L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0159. JAYCE ALLEN LANIER STAEHLY v. THE DIXIE GROUP, INC.  
et al.**

Jayce Allen Lanier Staehly, the grandson of deceased workers' compensation claimant Karen Cromer, seeks discretionary review of the superior court's order affirming the dismissal of his claim for benefits. The superior court ruled that Staehly does not qualify as Cromer's dependent under OCGA § 34-9-13, and it rejected his challenge to the constitutionality of that statute. In this application, Staehly reiterates his constitutional challenge.

The Supreme Court has exclusive appellate jurisdiction over all cases in which the constitutionality of a statute is called into question. See Ga. Const. Art. VI, Sec. VI, Par. II (1). "[I]n order to invoke that jurisdiction, the record must show that the trial court specifically passed on the constitutional issue." *Fulton County v. Galberaith*, 282 Ga. 314, 315 (1) (647 SE2d 24) (2007). Because Staehly's application materials show that the superior court specifically addressed the constitutional issue, this application is hereby TRANSFERRED to the Supreme Court for disposition.

LC#  
08CV52964



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 17 2008**

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

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

*Willie L. Martin*, Clerk.

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

ATLANTA,            DECEMBER 19, 2008

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

APPLICATION NO.        A09D0160  
LESTER DAHLHEIMER V. REBECCA DAHLHEIMER WALDEN

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

90014

2007CV135980



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 19 2008**

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

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

*Clerk.*

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

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

ATLANTA,                      JANUARY      02, 2009

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

APPLICATION NO.            A09D0161  
IN THE INTEREST OF: A. P. P. ,    A CHILD (FATHER)

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

93014

0800961



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

**JAN 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 above written.*

*Clerk.*

*Will. L. Martinez*

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

ATLANTA,                      JANUARY      02, 2009

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

APPLICATION NO.            A09D0162  
DIANE WRIGHT V. ATLANTA HOUSING AUTHORITY D/B/A  
HOLLYWOOD COURT APARTMENTS

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

91014

2008CV157404



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

**JAN 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 above written.*

*Clerk.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order. **DEC 11 2008**

**A09D0163. CALVIN HAPP ET AL. v. K.P. LICIOUS LLC D/B/A SLICE.**

Calvin Happ and Slice, Inc. seek to appeal the denial of their motion for OCGA § 9-15-14 attorney fees. The court's order denying the motion was entered November 4, 2008. The applicants filed their application 31 days later on December 5, 2008. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). Because this application is untimely, we lack jurisdiction to consider it, and it is therefore **DISMISSED**.

LC#  
2005CV108197



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **DEC 11 2008**

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

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

*Will. L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, DEC 19 2008

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

**A09D0164. In the Interest of B. C., a child (father).**

Brian Corn seeks to appeal the termination of his parental rights. The juvenile court terminated his rights by order entered on August 27, 2008. Corn filed a motion for new trial, which he has not included in his application for discretionary appeal. The court denied the motion for new trial by order dated November 3, 2008, and Corn filed his application for discretionary appeal on December 3, 2008.

It is axiomatic that an applicant to this Court bears the burden of demonstrating that the application for discretionary appeal should be granted.<sup>1</sup> Of utmost importance in so doing is showing that this Court has jurisdiction to consider the application. In order for this Court to have jurisdiction, applications must be timely filed.<sup>2</sup> A motion for new trial may extend the time in which appellate relief may be sought, but only if the motion was *timely* filed.<sup>3</sup> In order to be timely, such motion must be made within 30 days of the entry of the judgment.<sup>4</sup> “An untimely motion for new trial is void and does not operate to toll the time for filing of the notice of appeal.”<sup>5</sup>

Here, we do not know when the motion for new trial was filed as Corn failed to include a date-stamped copy with his application. Accordingly, Corn has not met

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<sup>1</sup> See *Harper v. Harper*, 259 Ga. 246 (378 SE2d 673) (1989).

<sup>2</sup> See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989).

<sup>3</sup> See OCGA § 5-6-38 (a).

<sup>4</sup> See OCGA § 5-5-40 (a).

<sup>5</sup> *Wright v. Rhodes*, 198 Ga. App. 269 (401 SE2d 35) (1990).

his burden of establishing that this Court has jurisdiction. Thus his application for discretionary appeal is hereby DISMISSED.

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

**DEC 19 2008**

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

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

, Clerk.



*Willi Z. Mat: [Signature]*

LC NUMBER: 08JV0353

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 14 2009**

**A09D0164. In the Interest of B. C., a child.**

On December 19, 2008, this Court dismissed Brian Corn's application for discretionary appeal as Corn had failed to establish that his motion for new trial was timely filed. Corn filed a motion for reconsideration, attaching a copy of his motion for new trial, which shows it was filed within 30 days of the entry of the trial court's order. Accordingly, the motion was timely filed and this Court has jurisdiction to consider Corn's application.

Corn's motion for reconsideration is therefore GRANTED; this Court's prior order dismissing the application is VACATED; and the application is REINSTATED. Upon full consideration of the merits of the application, however, the application is hereby DENIED.

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

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

ATLANTA,            DECEMBER 19, 2008

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

APPLICATION NO.        A09D0165

HENRY DYER V. THE STATE

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

70014

CR0500063



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

**DEC 19 2008**

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

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

*Clerk.*

*W. L. Mat... A*

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

ATLANTA,            JANUARY    07, 2009

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

APPLICATION NO.            A09D0166

CHARLES DAWSON V. DAWSON COUNTY BOARD OF EDUCATION

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

92014

08CV44



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0769

Atlanta, April 28, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CHARLES DAWSON v. DAWSON COUNTY BOARD OF  
EDUCATION

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. A09D0166

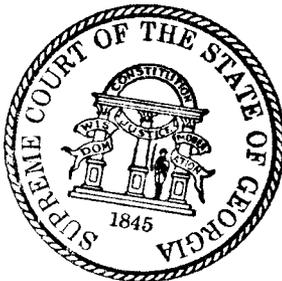
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Clerk's Office  
OFFICE OF THE CLERK  
OF THE SUPREME COURT  
OF THE STATE OF GEORGIA

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 13, 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 Eddem*, Deputy Clerk.

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

ATLANTA,                      DECEMBER 24, 2008

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

APPLICATION NO.            A09D0167  
LESLIE BAUMAN V. STUART FRASER HUMPHRIES

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.

94014

08CV2904



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 24 2008**

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

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

*Clerk.*

*Willi Z. Mantz*

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

ATLANTA,            DECEMBER 24, 2008

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

APPLICATION NO.        A09D0168

IN THE INTEREST OF: K. C. W.    AND B. K. W. ,    CHILDREN  
(FATHER)

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

99014

0800301



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 24 2008**

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

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

*Clerk.*

*Will. L. Martinez*

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

**ATLANTA,            DECEMBER 30, 2008**

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

APPLICATION NO.        A09D0169

JUDY CRAFT V. COX ENTERPRISES, INC., ET AL

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

95015

08CV2918

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 30 2008**

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

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

*Clerk.*

*Willi L. Mat: [Signature]*

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

ATLANTA,                    DECEMBER 30, 2008

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

APPLICATION NO.            A09D0170

JAMES GETER 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.

96015

01CR1431



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 30 2008**

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

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

*Clerk.*

*Will. L. Martinez*

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

ATLANTA,                      DECEMBER 22, 2008

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

APPLICATION NO.            A09D0171  
MICHAEL S. LAYTART 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.

98015

1995C21231



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 22 2008**

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

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

*Clerk.*

*Willie Z. Mantz*

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0172. WILLIAM H. TROUT, JR. v. JULIE J. TROUT.**

William H. Trout, Jr. filed this application for discretionary appeal from a final judgment and decree of divorce and an order denying his motion for new trial. The Supreme Court has general appellate jurisdiction in divorce and alimony cases. Ga. Const. of 1983, Art. VI, § VI, Par. III (6). Trout's appeal is therefore **TRANSFERRED** to the Supreme Court for disposition.

LC#  
2007V083



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **DEC 19 2008**

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

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

*Will. L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

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

**A09D0173. GILCHRIST v. GILCHRIST.**

Addrenna Gilchrist filed an application for discretionary appeal of an order requiring her to pay attorney fees to her ex-husband's divorce lawyer. According to Ms. Gilchrist, the trial court was without authority to issue such order since the underlying divorce action was on appeal to the Supreme Court.

The Supreme Court has exclusive jurisdiction over appeals in all divorce cases.<sup>1</sup> Here, although Ms. Gilchrist purports to challenge an award of attorney fees, the underlying subject matter is the divorce decree. The attorney fee issue is merely ancillary to the divorce proceedings. Accordingly, the issue at bar should properly be addressed by the Supreme Court. This is particularly true where, as here, the order on appeal invokes the Supreme Court's supersedeas powers. Therefore, Ms. Gilchrist's application is hereby TRANSFERRED to the Supreme Court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **DEC 30 2008**

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

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

*Willie L. Martin*, Clerk.

---

<sup>1</sup> Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (6).

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

ATLANTA,            JANUARY    02, 2009

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

APPLICATION NO.        A09D0174

IN THE INTEREST OF: G. A. M. ,    A CHILD (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.

91015

08JCV073

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,

DEC 22 2008

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

## **A09D0175. JAMES "CURT" PATTON, III v. EMILY ADAMS.**

James "Curt" Patton, III seeks to appeal the denial of his motion for new trial of the denial of his petition for downward modification of the child support award 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 only issue in this case involves child support, this Court lacks appellate jurisdiction over this application. See, e.g., *Upchurch v. Smith*, 281 Ga. 28 (635 SE2d 710) (2006); *Falkenberry v. Taylor*, 278 Ga. 842 607 SE2d 567) (2005); *Staffon v. Staffon*, 277 Ga. 179 (587 SE2d 630) (2003); *Hulett v. Sutherland*, 276 Ga. 596 (581 SE2d 11) (2003); *Wingard v. Paris*, 270 Ga. 439 (511 SE2d 167) (1999). Accordingly, this application is **TRANSFERRED** to the Supreme Court of Georgia.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

DEC 22 2008

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

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

*Willi L. Martz*

, Clerk.

LC Number: SU07DM322

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

ATLANTA,                      DECEMBER    31, 2008

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

APPLICATION    NO.            A09D0176  
SCOTT E. SPURLOCK V. THE GEORGIA DEPARTMENT OF HUMAN  
RESOURCES, EX. REL., EMILY F. SPURLOCK

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.

70015

08CS08611



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**DEC 31 2008**

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the minutes of the Court of Appeals of Georgia*

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

*Clerk.*

*Will. L. McIntosh*

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

ATLANTA,            JANUARY    09, 2009

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

APPLICATION NO.        A09D0177  
HESTER HOUGH V. TAMI SUMMERVILLE

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

71015

2008CV03566

*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Willi L. Mat...*

# Court of Appeals of the State of Georgia

ATLANTA, JAN 08 2009

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

**A09D0178. IN THE INTEREST OF: T. R. I., A CHILD (FATHER).**

Dustin Keith Land's parental rights were terminated in 2000. Seven years later, he filed a motion to set aside the termination, contending the superior court lacked jurisdiction to terminate his parental rights. The superior court denied the motion to set aside, and Land filed a motion for new trial. He now seeks to appeal the denial of his motion for new trial of the denial of his motion to set aside.

The underlying motion challenges only the trial court's judgment and legal conclusions, and as such it is not a proper motion for new trial. The motion essentially urges the trial court to reconsider the decision denying Land's motion to set aside. When an order or judgment does not involve a jury verdict, a motion for new trial lies "only to challenge the determination of substantive facts by the fact finder." (Citations and punctuation omitted.) *Bank South Mortgage v. Starr*, 208 Ga. App. 19 (429 SE2d 700) (1993). Land's motion does not challenge a determination of substantive facts by the fact finder. The motion is in substance a mere motion for reconsideration. The denial of such a motion is not appealable in its own right, nor does it extend the time to file an application for appeal. *Bell v. Cohran*, 244 Ga. App. 510, 511 (536 SE2d 187) (2000). Because this application is taken from a non-appealable order, the application is **DISMISSED** for lack of jurisdiction.



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

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

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

, Clerk.

*Willi Z. Mart* 

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: FEB 16 2009

**A09D0178. IN THE INTEREST OF: T. R. I., A CHILD (FATHER).**

We dismissed Dustin Land's application for discretionary appeal of the denial of his motion for new trial, finding that the motion was a mere motion for reconsideration. Land filed the motion for new trial from the denial of motions to set aside the termination of his parental rights and the adoption of his biological child.

Land contends that, contrary to our ruling, in his motion for new trial he challenged factual findings the trial court made when denying his motions to set aside. But "[a] motion for a new trial goes only to the verdict and reaches only such errors of law and fact as contributed to the rendition of the verdict." *Insurance Co. of N. America v. Eunice*, 111 Ga. App. 135 (140 SE2d 918) (1965). "A ruling or decision of the court made subsequent to the rendition of a verdict can never . . . be made the subject matter of a valid ground of a motion for a new trial." *Id.* A motion for new trial is therefore not the proper vehicle for challenging the denial of a motion to set aside a judgment. See *id.* (motion for new trial was not the proper vehicle for challenging the denial of motions to vacate judgments, even when the motions to vacate were based on evidentiary challenges).

Accordingly, Land's motion for reconsideration is **DENIED**.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta FEB 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.

*Willie L. Martin*, Clerk.

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

ATLANTA,                      JANUARY                      02, 2009

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

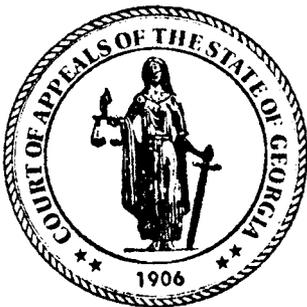
APPLICATION NO.                      A09D0179

DONALD D. WIRTH V. CACH, LLC, ASSIGNEE OF PROVIDIAN  
NATIONAL BANK

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.

94015

08C01579



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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 above written.*

*Clerk.*

*Willie L. Martin*

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

ATLANTA,            JANUARY    12, 2009

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

APPLICATION    NO.            A09D0180  
BOARD OF REGENTS OF THE UNIVERSITY SYSTEM  
OF GEORGIA V. BRENDA HOGAN

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.

99015

2004CV80595



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 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,            JANUARY    12, 2009

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

APPLICATION    NO.            A09D0181

EUGENE NOVY V. GEORGIA DEPARTMENT OF REVENUE

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

95016

2008CV149163



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,

*The Court of Appeals hereby passes the following order:* **JAN 06 2009**

**A09D0182. In the Interest of C. H., T. H., C. D. H., and W. H., children.**

After the juvenile court terminated the parental rights of the mother of C. H., T. H., C. D. H., and W. H., she filed a motion seeking to extend the time in which to file an appeal. Specifically, she requested that the juvenile court vacate its termination order and reissue it at a later date. The juvenile court denied the motion, and the mother sought discretionary review of the trial court's order. The mother now seeks to withdraw her application for discretionary appeal. The mother's motion to withdraw her application is hereby GRANTED.

**LC# 's**

**7107J386, 7107J388, 7107J387,  
7107J389**

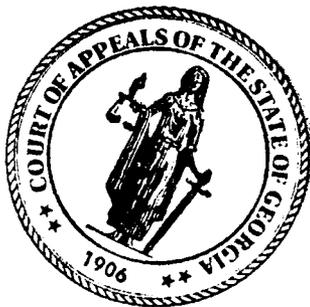
*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**JAN 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,            JANUARY    08, 2009

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

APPLICATION NO.        A09D0183

ELLIE STEPHENS V. JAMES W. STEPHENS, JR.

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

98016

9418467



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Willi Z. Mart*

# Court of Appeals of the State of Georgia

ATLANTA, JAN 08 2009

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

## **A09D0184. ALBERT L. JEFFCOAT v. THE STATE.**

Albert L. Jeffcoat filed this application for discretionary appeal seeking to appeal an October 27, 2008, order denying his “motion for production of transcript (audio tape)” as well as a November 21, 2008, order denying his motion for reconsideration of the October 27 order. We lack jurisdiction. Jeffcoat’s December 17, 2008, application is untimely as to the October 27, 2008 order. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). Jeffcoat filed his application 51 days after entry of the October 27 order. Further, an order denying a motion for reconsideration is not itself appealable. *Savage v. Newsome*, 173 Ga. App. 271 (326 SE2d 5) (1985). Nor does a motion for reconsideration extend the time for filing a discretionary application. *Cheeley-Towns v. Rapid Group*, 212 Ga. App. 183 (441 SE2d 452) (1994). For these reasons, we lack jurisdiction over this discretionary application which is therefore **DISMISSED**.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Willi Z. Mantz*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 12 2009**

**A09D0185. FOSTER v. THE STATE.**

Michael Foster filed an application for discretionary appeal seeking review of the trial court's denial of his motion to withdraw his guilty plea. As such order is directly appealable, this Court ordinarily would grant such application in accordance with OCGA § 5-6-35 (j). However, Foster was required to file his application within 30 days after the entry of the appealable order. Here, Foster seeks to appeal an order entered on October 29, 2008, but did not file his application until December 18, 2008. Accordingly, the appeal is untimely.<sup>1</sup> Thus, we must dismiss the appeal for lack of jurisdiction.<sup>2</sup>

LC#  
CR0600125



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

*Will L. Martin*, Clerk.

<sup>1</sup> See OCGA § 5-6-38 (a).

<sup>2</sup> See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).

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

ATLANTA,                      JANUARY      14, 2009

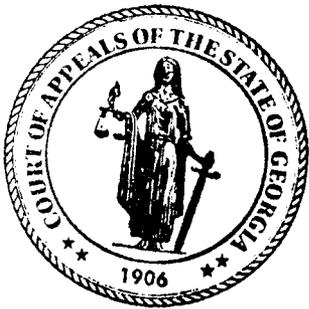
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0186  
DONN ALAN COE V. MICHAEL L. THURMOND COMMISSIONER  
OF GEORGIA DEPARTMENT OF LABOR

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

93016

20083171



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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. Mat... [Signature]*

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

ATLANTA,            JANUARY    08, 2009

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

APPLICATION NO.        A09D0187

ANDREW TATUM V. THE STATE

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

91016

2006CR064



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Willi L. Mathis, Jr.*

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

ATLANTA,                    JANUARY    14, 2009

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

APPLICATION NO.            A09D0188  
KELVIN SMITH V. PROFESSIONAL STANDARDS COMMISSION

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

70016

2008CV56191



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1430

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

ZANE ALEXANDER HOLDEN et al. 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. A09I0189

RECEIVED IN OFFICE  
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eJide K. M...  
CLERK'S OFFICE ADMINISTRATOR



**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 J. Bame*, Clerk.

71-016

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

ATLANTA,                      JANUARY      20, 2009

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

APPLICATION NO.            A09D0189  
RHON H. ROBERTS V. YOLANDA F. HETMYER

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

71016  
08A07789



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Willie L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA, JAN 08 2009

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

**A09D0190. CARLOS A. SKEETE v. MIKE MOON ET AL.**

On December 22, 2008, Carlos A. Skeete filed this application for discretionary appeal from an October 29, 2008, order granting summary judgment to Mike L. Moon, Stephen L. Smith and Moon Family Properties. An application for discretionary appeal must be filed within 30 days of the order appealed. OCGA § 5-6-35 (d). Because Skeete filed his application 54 days after entry of the order he seeks to appeal, it is untimely. This Court lacks jurisdiction to consider an untimely application. For this reason, the application is **DISMISSED**.



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

JAN 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.*

*Willi Z. Mat*, Clerk.

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

ATLANTA,                      JANUARY      15, 2009

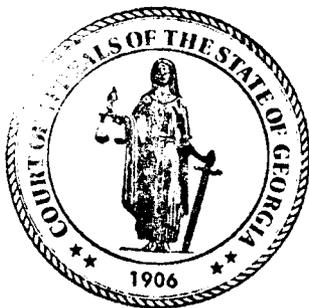
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0191  
ANTI-LANDFILL CORPORATION, INC., ET AL V. CAROL  
A. COUCH ET AL

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

94016

08V0477



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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. Mat... [Signature]*

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

ATLANTA,                      JANUARY      15, 2009

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

APPLICATION    NO.            A09D0192  
SAFELITE GROUP AND SPECIALTY RISK SERVICES V. ROBERT  
RODGERS

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

99016

08CV1122



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,                      FEBRUARY    04, 2009

*The Court of Appeals passed the following order*

Case No. A09D0192

SAFELITE GROUP AND SPECIALTY RISK SERVICES V. ROBERT  
RODGERS

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    FEB 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*

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:** February 24, 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 **S09C0929**

SAFELITE GROUP and SPECIALTY RISK SERVICES v.  
ROBERT RODGERS

Clerk, Supreme Court of Georgia

Case No. A09D0192

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

FEB 26 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0929

Atlanta, May 4, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

SAFELITE GROUP and SPECIALTY RISK SERVICES v.  
ROBERT RODGERS

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. A09D0192

RECEIVED IN OFFICE  
MAY 26 2009  
COURT OF APPEALS OF GA.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 26, 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 Edison*, Deputy Clerk.

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

ATLANTA,            JANUARY    14, 2009

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

APPLICATION    NO.            A09D0193  
KEITH BRUCE V. FIRST INVESTORS FINANCIAL SERVICES, INC.,  
ASSIGNEE OF THE CURRY CORP D/B/A CURRY HONDA

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.

95017

08CV2812



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,                      JANUARY      21, 2009

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

APPLICATION NO.            A09D0194  
JAMES T. LANEY V. TOLLESON LUMBER AND CAMBRIDGE  
INTEGRATED SERVICES GROUP, INC

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

96017

2008SUV46



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

**JAN 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.*

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 15 2009**

**A09D0195. GOODY MATHIS, JR. v. THE STATE.**

On December 23, 2008, Goody Mathis, Jr. filed an application seeking discretionary review of a trial court order entered on November 13, 2008. An application for discretionary appeal must be filed within 30 days of the order appealed from. OCGA § 5-6-35 (d). We lack jurisdiction to consider an untimely application. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Mathis' application was filed 40 days after entry of the order he seeks to appeal. The application is untimely and is therefore DISMISSED.



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

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

ATLANTA,                    JANUARY    29, 2009

*The Court of Appeals passed the following order*

Case No. A09D0195

GOODY MATHIS, JR.,    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    JAN 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. Mathis*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* JAN 12 2009

**A09D0196. MASHEILA ANN KIMSEY v. THE STATE.**

On December 24, 2008, Masheila Ann Kimsey filed this application for discretionary appeal, challenging an October 27, 2008 order revoking her probation. 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). Kimsey filed her application 58 days after entry of the order she seeks to appeal. Her application is therefore untimely and is **DISMISSED** for lack of jurisdiction.

LC#  
06CR331



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

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 23 2009**

## **A09D0197. TURNER v. THE WINDWARD BASEBALL ACADEMY, INC.**

Noel Turner, Jr. filed a breach of contract claim in magistrate court. He then appealed to the superior court for de novo review, and that court granted partial summary judgment in favor of the Windward Baseball Academy, Inc. on October 31, 2008. The superior court subsequently granted Turner's request for an extension of time in which to file an appeal, and Turner filed this application on December 30, 2008.

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.<sup>1</sup> Here, Turner did not file his application within 30 days of the trial court's ruling granting partial summary judgment. Accordingly, this Court lacks jurisdiction to consider his 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.<sup>2</sup> Thus, this application is hereby DISMISSED.

---

<sup>1</sup> See *Boyle v. State*, 190 Ga. App. 734 (380 SE2d 57) (1989).

<sup>2</sup> 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).



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

**JAN 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,                      JANUARY      22, 2009

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

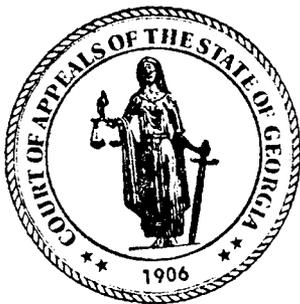
APPLICATION NO.            A09D0198

JONATHAN AUSTIN V. THE STATE

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

91017

SU08CR1670



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*William L. Martinez*

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

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

**Docketing Date:** February 11, 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 **S09C0856**

JONATHAN AUSTIN v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0198

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

FILED  
FEB 11 2009

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0856

Atlanta, April 28, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JONATHAN AUSTIN 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. A09D0198

RECEIVED IN OFFICE  
09 MAY 14 AM 11:55  
Clerk/Court Administration  
J. K. [Signature]

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 13, 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 Lidson, Deputy* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JAN 15 2009**

**A09D0199. IN THE INTEREST OF: T. W. AND D. W., CHILDREN  
(MOTHER).**

The mother of these children seeks to appeal an order finding the children to be deprived and placing them in the temporary custody of the Paulding County Department of Family and Children Services. Because deprivation cases are neither child custody nor domestic relations cases within the purview of OCGA § 5-6-35 (a) (2), a right of direct appeal lies from final orders in such cases.<sup>1</sup> *In the Interest of J.P.*, 267 Ga. 492 (480 SE2d 8) (1997). Therefore, the mother's application is **GRANTED** as required under OCGA § 5-6-35 (j). The mother shall have ten days from the date of this order to file her notice of appeal in the juvenile court. The clerk of the juvenile court is instructed to include a copy of this order in the record transmitted to this court.

---

<sup>1</sup>In 2007, the Georgia Legislature amended OCGA § 5-6-35 as to appeals of orders terminating parental rights. Act 264, H. B. No. 369 (the "Act"). Before the changes, orders terminating parental rights were directly appealable as a matter of right. *In re 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). The Act purports to require an application for discretionary appeal to appeal such orders. OCGA § 5-6-35 (a) (12). Although deprivation proceedings are part of the termination process, by its terms subsection (12) only applies to "[a]ppeals from orders terminating parental rights," not orders finding deprivation.

LC#'S

08JV01189, 08JV01190



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**JAN 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.



**SUPREME COURT OF GEORGIA**

Case No. S09D0425

Atlanta

DEC 18 2008

The Honorable Supreme Court met pursuant to adjournment.

**FILED IN OFFICE**

The following order was passed:

JAN 02 2009

CLERK, COURT OF APPEALS OF GEORGIA

CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GA.

*[Handwritten signature]*

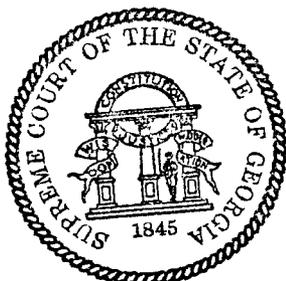
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RECEIVED IN OFFICE

**SAMMY HALLAQ v. GREENWOOD TRUST COMPANY**

From the State Court of Gwinnett County.

This discretionary application arises from a 1998 default judgment entered against appellant for credit card debt, which appellant argues is void for lack of personal jurisdiction. Appellant seeks to appeal an order denying his motion for reconsideration. The Court of Appeals has previously dismissed two applications in the same matter, see Hallaq v. Greenwood Trust Co., A08D0454 (July 25, 2008); Hallaq v. Greenwood Trust Co., A09D0017 (Sept. 22, 2008). Although appellant raises due process issues on appeal, his claims do not invoke this Court's constitutional question jurisdiction, see Ga. Const. of 1983, Art. VI, Sec. VI, Par. II (1), because the trial court did not rule on the issue, see Marr v. Ga. Dept. of Ed., 264 Ga. 841 (452 SE2d 112) (1995); Atlanta Independent School System v. Lane, 266 Ga. 657, 658 (1) (469 SE2d 22) (1996), and because any constitutional questions presented 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). As no other basis for this Court to exercise its subject matter jurisdiction is apparent from the application, it hereby is transferred to the Court of Appeals.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

*[Handwritten signature: Sumette Edison]*

, Deputy Clerk

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order.* **JAN 14 2009**

**A09D0200. HALLAQ v. GREENWOOD TRUST COMPANY.**

This is Sammy Hallaq's third application for discretionary appeal. In all three applications, Hallaq has essentially challenged the trial court's April 10, 2008 order denying his motion to vacate a default judgment.<sup>1</sup> For the reasons set forth in those prior orders, his application for discretionary appeal must be DISMISSED.

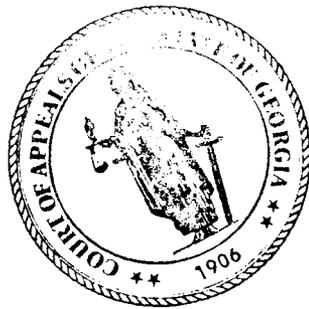
"It is axiomatic that the same issue cannot be relitigated ad infinitum."<sup>2</sup> In attempting to litigate the same issue multiple times, Hallaq has filed an application that has no basis in law and is thus frivolous. This Court is empowered to impose sanctions upon a party who files a frivolous application for discretionary appeal.<sup>3</sup> We caution Hallaq against filing future motions or pleadings in this Court that have no substantial basis in law as such may result in the imposition of sanctions.

---

<sup>1</sup> Specifically, Hallaq has appealed the denial of motions for reconsideration and a motion to recuse the judge who denied such motions.

<sup>2</sup> (Punctuation omitted.) *Nally v. Bartow County Grand Jurors*, 280 Ga. 790, 791 (3) (633 SE2d 337) (2006).

<sup>3</sup> See Court of Appeals Rule 15 (b).



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**JAN 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. 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:** January 30, 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 **S09C0777**

**SAMMY HALLAQ v. GREENWOOD TRUST COMPANY**

Clerk, Supreme Court of Georgia

Case No. A09D0200

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. S09C0777

Atlanta, April 28, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

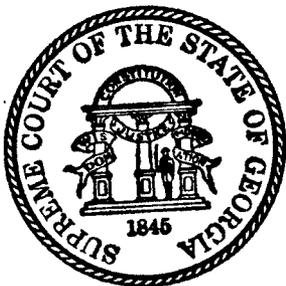
SAMMY HALLAQ v. GREENWOOD TRUST COMPANY

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 be hereby denied.

All the Justices concur.

Bill of Costs, \$80.00  
Court of Appeals Case No. A09D0200

CLERK'S OFFICE  
COURT OF APPEALS OF GA.  
2009 MAY 26 PM 3:46



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 26, 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.

*Suzette Edison, Deputy* Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      JANUARY      15, 2009

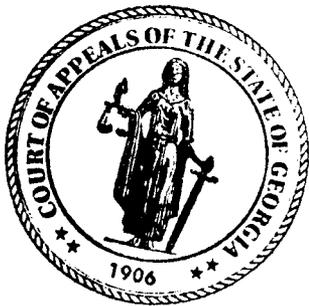
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0201  
MELVIN EUGENE REEVES 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.

70017

98CR00361



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,            JANUARY    22, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0202  
GREGORY R. BOBBS V. DIANNE VERPLAETSE

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

71017

07CV302



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*    **JAN 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,            JANUARY    22, 2009

*The Court of Appeals hereby passes the following order:*

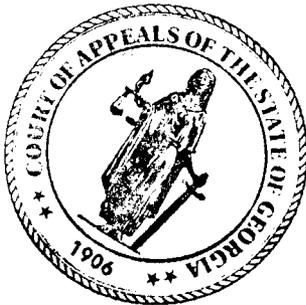
APPLICATION NO.            A09D0203

JIMMY RAY HUNTER V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

92017

02CR20367



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **JAN 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,

*The Court of Appeals hereby passes the following order:*

JAN 27 2009

## **A09D0204. WILLIAM F. WALSH v. THE STATE.**

William Walsh seeks to appeal an order denying his motion to limit the contents of an appellate record. For reasons that follow, we lack jurisdiction.

In 1997, Walsh was convicted of child molestation. On appeal, we affirmed his conviction. *Walsh v. State*, 236 Ga. App. 558 (512 SE2d 408) (1999). Walsh later filed a motion for out-of-time appeal, which the trial court denied in September 2008. Walsh filed a notice of appeal from that denial. After receiving a bill in the amount of \$3,332 from the clerk of court for the cost of preparing the appellate record, Walsh filed a motion to limit the record to the few items he deemed necessary for our consideration. The trial court denied that motion as well,<sup>1</sup> prompting Walsh to file another notice of appeal in the trial court.

Walsh has also filed an application in this Court seeking an appeal from the denial of his motion to limit the record. There are multiple problems with the application. First, it is untimely. The order denying Walsh's motion to limit the record was entered on November 7, 2008, but Walsh's application was not filed until January 2, 2009.<sup>2</sup> To be valid, an application for discretionary appeal must be filed

---

<sup>1</sup> The trial court did not provide an explanation for its denial. We note that an appellant does not require permission from the trial court to designate which portions of the record should be omitted from the record on appeal. See OCGA § 5-6-37; *Jordan v. Johnson*, 223 Ga. App. 875, 876 (479 SE2d 175) (1996).

<sup>2</sup> Although we received Walsh's application on December 9, 2008, we could not accept it for filing at that time because it did not include the requisite filing fee. See OCGA § 5-6-4 ("The clerk is prohibited from receiving the application for appeal or

within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Walsh's application was filed 56 days after the order he seeks to appeal. We therefore lack jurisdiction to consider it.

Second, the order from which Walsh seeks an appeal is a nonfinal order that does not constitute the trial court's final ruling on the merits of the action. The trial court did not dismiss Walsh's appeal for failure to pay costs under OCGA § 5-6-48 (c); it merely denied his motion to limit the appellate record. Based on the materials Walsh has submitted to this Court, it appears that his two notices of appeal remain pending in the trial court. Thus, Walsh was required to follow the interlocutory application procedures set forth in OCGA § 5-6-34 (b) by obtaining a certificate of immediate review from the trial court within the requisite time period and filing an application with this Court. His failure to do so deprives us of jurisdiction to consider this appeal.

Finally, although Walsh's out-of-time appeal is not before us, we caution him that "[a]n out-of-time appeal serves as the remedy for a frustrated right of appeal for a criminal defendant whose conviction has not been reviewed by an appellate court." *Jackson v. State*, 280 Ga. 27 (622 SE2d 356) (2005). Walsh has already had a direct appeal of his criminal conviction. In general, a defendant is "not entitled to another bite at the apple by way of a second appeal." *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001); see also *Carter v. State*, 275 Ga. App. 846 (1) (622 SE2d 60) (2005). Such second appeals are subject to dismissal. See *Jackson*, supra.

For the reasons set forth above, this application is DISMISSED for lack of jurisdiction.

---

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 30 (c). We received the filing fee, and filed and docketed the application, on January 2, 2009.

LC# 'S

1997CR44, 1997CR45, 1997CR48  
1997CR51



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**JAN 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.*

*Will L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

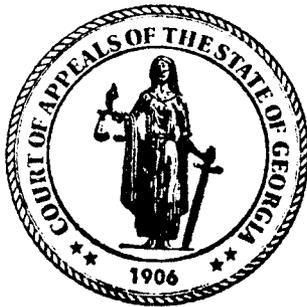
ATLANTA,

*The Court of Appeals hereby passes the following order:*

JAN 20 2009

## **A09D0205. WILMART MARTIN, JR. v. THE STATE.**

On January 5, 2009, Wilmart Martin, Jr. filed this application for discretionary appeal of the November 26, 2008 order denying his "Motion to Correct a Void Sentence."<sup>1</sup> To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Martin filed his application 40 days after entry of the order he seeks to appeal. Martin's untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

JAN 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, Jr.*, Clerk.

---

<sup>1</sup> Martin'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 Rule 31 (d).

**Court of Appeals  
of the State of Georgia**

ATLANTA,            JANUARY    22, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0206

THE LAMAR COMPANY, LLC.,    V.    WHITEWAY NEON-AD, A DIVISION  
OF LEVIN INDUSTRIES ET AL

Upon consideration of the Application for Discretionary Appeal, <sup>now</sup> 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.

96018

2008CV153348



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,                      JANUARY      23, 2009

*The Court of Appeals hereby passes the following order:*

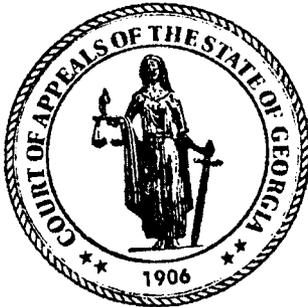
APPLICATION NO.            A09D0207

DIANA HOLTON BRIMER V. ADRIENNE ELIZABETH MOORE-BELL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98018

08CV10346



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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. Martinez*

**Court of Appeals  
of the State of Georgia**

ATLANTA,            FEBRUARY 10, 2009

*The Court of Appeals passed the following order*

Case No. A09D0207

DIANA HOLTON BRIMER V. ADRIENNE ELIZABETH MOORE-BELL

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 FEB 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*

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: March 02, 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 **S09C0959**

DIANA HOLTON BRIMER v. ADRIENNE ELIZABETH MOORE-BELL

Clerk, Supreme Court of Georgia

Case No. A09D0207

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Sent to S.C.  
MAR 03 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0959

Atlanta, May 4, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DIANA HOLTON BRIMER v. ADRIENNE ELIZABETH MOORE-BELL

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. A09D0207

RECEIVED IN OFFICE  
JULY 26 PM 3:46  
CLERK OF APPEALS OF GA.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 26, 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 Edson, Deputy* Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,            FEBRUARY 02, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0208  
ALLIED READYMIX ET AL V. PHILIP INGLIMA

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

90018

08A07369



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **FEB 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,                      FEBRUARY 25, 2009

*The Court of Appeals passed the following order*

Case No. A09D0208

ALLIED READYMIX ET AL V. PHILIP INGLIMA

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    FEB 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*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1056

Atlanta, June 15, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

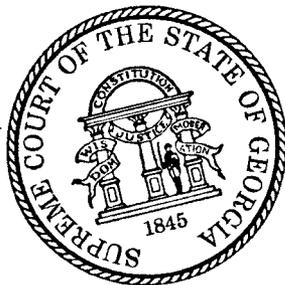
ALLIED READYMIX et al. v. PHILIP INGLIMA

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. A09D0208

JUL 07 2009



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta July 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.

*Theresa Banne*, Clerk.



**SUPREME COURT OF GEORGIA**  
Case No. S09C1056

Atlanta June 15, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**ALLIED READYMIX et al. v. PHILIP INGLIMA**

On motion it is ordered that counsel for the petitioner be allowed to  
withdraw this case.

Court of Appeals Case No. A09D0208

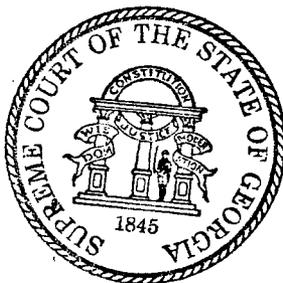
**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

JUL - 6 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.



  
, Chief Deputy 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: March 17, 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 **S09C1056**

**ALLIED READYMIX et al. v. PHILIP INGLIMA**

Clerk, Supreme Court of Georgia

Case No. A09D0208

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**MAR 18 2009**

Clerk, Court of Appeals of Georgia

**Court of Appeals  
of the State of Georgia**

ATLANTA,            JANUARY    28, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.        A09D0209  
JERRY LARRY COLLIER V. CVS PHARMACY

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93018

08A93389



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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,                      FEBRUARY 04, 2009

*The Court of Appeals hereby passes the following order:*

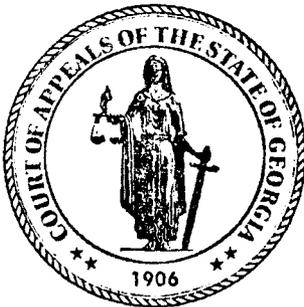
APPLICATION NO.            A09D0210

DAVID DISHEROON ET AL V. PATRICIA O. SCHEUER

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.

91018

0713243



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      FEB 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,                      JANUARY      30, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.                      A09D0211

GEORGIA DEPARTMENT OF COMMUNITY HEALTH ET AL V.

WINDER HMA, INC., D/B/A BARROW REGIONAL MEDICAL CENTER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

94018

08CV712



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Will. L. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      JANUARY      30, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0212  
NORTHEAST GEORGIA MEDICAL CENTER, INC., V. WINDER  
HMA, INC., D/B/A BARROW REGIONAL MEDICAL CENTER

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.

94019  
08CV712



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 30 2009**

**A09D0213. CITY OF STOCKBRIDGE, GEORGIA v. CLARY et al.**

Following a jury trial regarding the value of land condemned by the City of Stockbridge, the City moved for an award of attorney fees pursuant to OCGA § 22-2-84.1. The trial court denied the motion, and the City filed an application for discretionary appeal, citing OCGA § 5-6-35 (a) (10). Under this code section, an appeal from an award of attorney fees pursuant to OCGA § 9-15-14 must be by application. Here, however, the City did not seek attorney fees under OCGA § 9-15-14. Thus, an application is not required and the order is directly appealable as a final order. Accordingly, the City's application is hereby GRANTED under OCGA § 5-6-35 (j). The City shall have ten days from the date of this order to file a notice of appeal with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this court.

LC#  
2005SUCV2866



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**JAN 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. Martin* : Clerk.

C **Court of Appeals  
of the State of Georgia**

ATLANTA,

FEB 05 2009

*The Court of Appeals hereby passes the following order:*

**A09D0214. NEW PRIME, INC. v. ALBERT A. TRAMMELL.**

Employer/self-insurer New Prime, Inc. moved to dismiss Albert A. Trammell's claim for workers' compensation income benefits. An administrative law judge ruled that Trammell's claim was barred by the applicable statute of limitation, but the appellate division of State Board of Workers' Compensation reversed, holding that the claim is not time-barred. New Prime then appealed to the superior court, which affirmed the appellate division. New Prime now seeks discretionary review in this court.

Only final workers' compensation awards or decisions may be appealed to the superior court. OCGA § 34-9-105 (b). In this case, the order of the appellate division was an interlocutory ruling, not a final award granting or denying compensation. "The Work(ers') Compensation act makes no provision for an appeal to the superior court from a decision by the [appellate division] other than one which grants or denies compensation.' *Garner v. Owens-Illinois Glass*, 134 Ga. App. 917 (216 SE2d 709) (1975); OCGA § 34-9-105 (b)." *Conwood Corp. v. Guinn*, 190 Ga. App. 595 (379 SE2d 621) (1989). The superior court thus lacked jurisdiction to decide the case and should have declined to review the appeal. See *Cartwright v. Midtown Hospital*, 243 Ga. App. 828 (534 SE2d 504) (2000).

Because we conclude that the superior court did not address a final workers' compensation award or decision, this application presents nothing for review. It is therefore DISMISSED as premature. See *Gilman Paper Co. v. Davis*, 230 Ga. App. 364 (496 SE2d 469) (1998).

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 20, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.                      A09D0215

CINDY F. O'BRIEN V. WILLIAM E. BOWLES, JR.

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

92018

2007V1790



*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 written.*

*Clerk.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **JAN 29 2009**

## **A09D0216. COBBLE v. THE STATE.**

David Cobble has filed an application for discretionary appeal, seeking to appeal the trial court's order denying his motion to vacate an allegedly void sentence. As such order is directly appealable, this Court ordinarily would grant the application in accordance with OCGA § 5-6-35 (j). However, the application must still be timely. Here, Cobble was required to file his application within 30 days after the entry of the appealable order. Although Cobble seeks to appeal an order entered on December 11, 2008, he did not file his application until January 15, 2009.<sup>1</sup> Accordingly, the application is untimely.<sup>2</sup> And this Court lacks jurisdiction to consider an untimely application.<sup>3</sup> The application is therefore DISMISSED.

---

<sup>1</sup> Although Cobble initially attempted to file his application on January 2, 2009, it was returned to him because it did not contain a copy of the order on appeal, which is clearly required. See OCGA § 5-6-35 (c); Court of Appeals Rule 31 (d) (“[d]iscretionary appeals must contain a stamped ‘filed’ copy of the trial court’s order from which the appeal is sought.”).

<sup>2</sup> See OCGA § 5-6-38 (a).

<sup>3</sup> See OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

LC#  
89CR1895

*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta*      **JAN 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.

# Court of Appeals of the State of Georgia

ATLANTA, February 12, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0217. MICHAEL CRUMPTON v. THE STATE.**

On December 12, 2008, the trial court entered an order revoking Michael Crumpton's probation. On December 30, 2008, Crumpton submitted to this Court an application for discretionary appeal, but he failed to include a copy of the order he sought to appeal or to submit either the requisite filing fee or a sufficient pauper's affidavit. Accordingly, on January 5, 2009, this Court returned Crumpton's materials to him. 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."); OCGA § 5-6-35 (c) ("The applicant shall include as exhibits to the petition a copy of the order or judgment being appealed . . ."). On January 20, 2009, Crumpton re-submitted his application, this time including a pauper's affidavit and a copy of the order to be appealed.<sup>1</sup> His application was filed on that date. We, however, lack jurisdiction to consider it.

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. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). This application was filed 49 days after entry of the order Crumpton seeks to appeal. His untimely application for appeal is therefore *DISMISSED* for lack of jurisdiction.

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<sup>1</sup> The copy of the order that Crumpton submitted was not stamped "filed" copy as required by Court of Appeals Rule 31 (e). On February 2, 2009, this Court finally received a stamped "filed" copy of the order.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* FEB 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.*

*Willie L. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 06, 2009

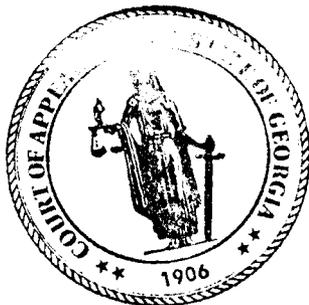
*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0218  
SHAW INDUSTRIES, INC., V. MYRON AUSTIN

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

95019

08CV75108



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 13, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0219  
ST. JOSEPH HOSPITAL ET AL V. SANDRA WARD

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

92021  
2008RCCV2053



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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.*

*William L. Martinez*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 23, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0220  
ROBERT BUCKLER ET AL V.   DEKALB COUNTY BOARD OF  
COMMISSIONERS ET AL

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

91019

06CV3713



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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.*

*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:** March 13, 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 **S09C1036**

ROBERT H. BUCKLER et al. v. DEKALB COUNTY et al.

Clerk, Supreme Court of Georgia

Case No. A09D0220

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

Pb  
3/16/09

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1036

Atlanta, May 18, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

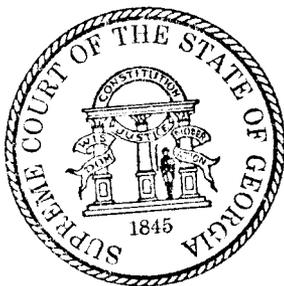
ROBERT H. BUCKLER et al. v. DEKALB COUNTY et al.

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, \$80.00  
Court of Appeals Case No. A09D0220

RECEIVED IN OFFICE  
2009 JUN -8 AM 11:36  
Clerk's Office  
CLERK/COUNT ADMINISTRATOR  
COURT OF APPEALS  
GA.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta June 04, 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 Eickens, Deputy* Clerk.

# Court of Appeals of the State of Georgia

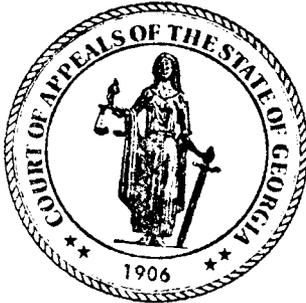
ATLANTA,

The Court of Appeals hereby passes the following order: **JAN 30 2009**

**A09D0221. PAUL R. JONES, JR. v. THE STATE.**

Paul R. Jones, Jr. filed this application for discretionary appeal of an order denying his motion for an out-of-time appeal. The denial of a motion for out-of-time appeal is directly appealable, however. *Lunsford v. State*, 237 Ga. App. 696 (515 SE2d 198) (1999). Therefore, Jones's application is **GRANTED** under OCGA § 5-6-35 (j). Jones shall have ten days from the date of this order to file his notice of appeal with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this court.

LC#  
97CR4766



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **JAN 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. Mat... , Clerk.*

# Court of Appeals of the State of Georgia

ATLANTA, February 12, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0222. IN RE: LIGON.**

Melvin Ligon filed a petition in probate court for a processioning of land pursuant to OCGA § 44-4-1 et seq. The judge dismissed the suit based upon res judicata. Ligon seeks to appeal this ruling.<sup>1</sup>

OCGA § 15-9-123 (a) provides that any party to a civil case in the probate court shall have the right of appeal to this court; however, a probate court for purposes of this statute is “a probate court of a county having a population of more than 96,000 according to the United States decennial census.”<sup>2</sup> As the Lumpkin County Probate Court does not meet this statutory requirement according to the 2000 census, OCGA § 15-9-123 (a) is not applicable to appeals from the rulings and judgments of that court. Instead, OCGA § 5-3-2 (a) vests the superior court with appellate jurisdiction over any decision of a probate court, except an order appointing a temporary administrator. Accordingly, this Court lacks jurisdiction to consider Ligon’s appeal, which is hereby DISMISSED.

---

<sup>1</sup> Although Ligon filed an application for discretionary appeal, an order dismissing a case is generally directly appealable. See OCGA § 5-6-34 (a) (1).

<sup>2</sup> OCGA § 15-9-120 (2).



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta **FEB 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.*

*Will L. Matz* Clerk.

**Court of Appeals  
of the State of Georgia**

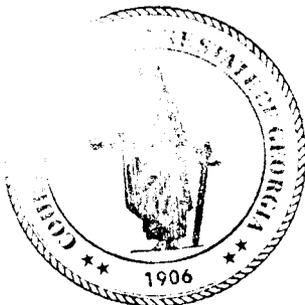
ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals passed the following order*

Case No. A09D0222

IN RE: MELVIN K. LIGON

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    FEB 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.

*Willie L. Martin*

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

**Docketing Date:** March 18, 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 **S09C1066**

IN RE: MELVIN LIGON

Clerk, Supreme Court of Georgia

Case No. A09D0222

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 19 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1066

Atlanta, June 1, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN RE: MELVIN LIGON

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. A09D0222

JUL 07 2009



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta July 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.

*Theresa A. Lane*, Clerk.



**SUPREME COURT OF GEORGIA**  
Case No. **S09C1066**

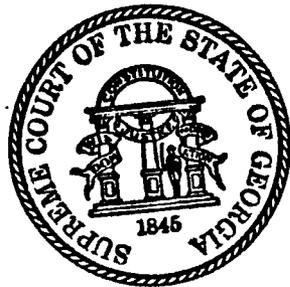
Atlanta **June 01, 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**IN RE: MELVIN LIGON**

As the Court of Appeals denied petitioner's motion for reconsideration on February 25, 2009 and as petitioner did not file in this Court a motion for extension of time to file a petition, his petition was due to be filed on March 17, 2009. However, his petition was not filed until March 18, 2009, thus making it untimely. Accordingly, this Court lacks jurisdiction and the petition for certiorari must be and hereby is dismissed. Supreme Court Rule 38 (2).



**SUPREME COURT OF THE STATE OF GEORGIA**  
Clerk's Office, Atlanta

**JUL - 6 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 Edison*, Deputy Clerk



**SUPREME COURT OF GEORGIA**  
Case No. S09D0542

Atlanta January 9, 2009

*Handwritten signature*  
CLERK'S OFFICE  
CLERK OF THE SUPREME COURT  
CLERK OF THE SUPREME COURT

2009 JAN 26 PM 1:33

RECEIVED IN OFFICE

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**DERRON ANDRETTI JACKSON v. THE STATE**

From the Superior Court of Newton County.

Applicant filed this application seeking review of the denial of his "Motion to Amend and Motion for Evidentiary Hearing to Set Aside" in which he apparently challenged the validity of his underlying convictions. Because applicant was convicted of non-capital offenses, however, the Supreme Court does not have jurisdiction over this application, see OCGA § 15-3-3. As no other basis for this Court's subject matter jurisdiction is evident from the record, the application 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.

*Leannette Edson*, Deputy Clerk

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* FEB 06 2009

**A09D0223. DERRON ANDRETTI JACKSON v. THE STATE.**

Derron Andretti Jackson was found guilty of armed robbery, possession of a firearm during the commission of a felony, and possession of a firearm by a convicted felon. We affirmed his conviction in an unpublished opinion. *Jackson v. State*, 244 Ga. App. XXVI (Appeal No. A00A0633, decided June 7, 2000). In 2008, Jackson filed a “Motion to Amend and Motion for Evidentiary Hearing to Set Aside” in the trial court, which summarily denied it. Jackson now seeks appellate review.<sup>1</sup>

In his motion, Jackson raised various challenges to the validity of his underlying conviction. He argued, for example, that the evidence was insufficient, the jury instructions were erroneous, and the prosecutor engaged in misconduct. These challenges either were made or could have been made in Jackson’s first appeal. He “is not entitled to another bite at the apple by way of a second appeal.” *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001); see also *Shields v. State*, 276 Ga. 669, 670 (2) (581 SE2d 536) (2003). When a defendant attempts a second appeal of the same judgment of conviction, “it is improper and should be dismissed.” *Miller v. State*, 277 Ga. 372 (589 SE2d 108) (2003).

Jackson’s motion did contain one challenge that he could not have raised on direct appeal – ineffective assistance of appellate counsel. But Jackson must pursue that claim through a petition for writ of habeas corpus. See *Stanford v. Stewart*, 274 Ga. 468 (554 SE2d 480) (2001); *Battles v. Chapman*, 269 Ga. 702 (506 SE2d 838) (1998).

---

<sup>1</sup> Jackson filed this application in the Supreme Court, which transferred it here.

Because we lack jurisdiction to consider Jackson's application, it is hereby  
DISMISSED.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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.*

*Will. L. Martin*, Clerk.

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C0946

Atlanta, May 4, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

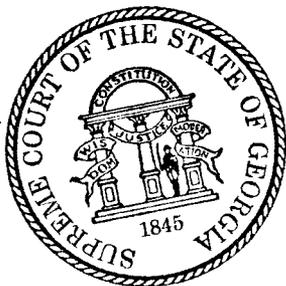
DERRON ANDRETTI JACKSON v. THE STATE

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, \$80.00  
Court of Appeals Case No. A09D0223

RECEIVED IN OFFICE  
2009 MAY 26 PM 3:45  
CLERK OF APPEALS OF GA.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta May 26, 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 Eidson, Deputy* Clerk.

# Court of Appeals of the State of Georgia

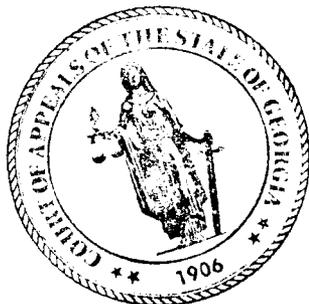
ATLANTA, FEB 04 2009

*The Court of Appeals hereby passes the following order:*

**A09D0224. NYE LAVALLE v. EDWARD JARRETT.**  
**A09D0225. NYE LAVALLE v. JOSEPH GRENUK.**

Nye Lavalley filed these applications for discretionary appeal seeking review of contempt orders and default stalking permanent protective orders. A judgment of contempt is directly appealable. OCGA § 5-6-34 (a) (2); *In re Booker*, 186 Ga. App. 614 (367 SE2d 850) (1988). Further, the protective orders, which enjoin and restrain Lavalley from certain conduct, constitute injunctions subject to direct appeal under OCGA § 5-6-34 (a) (4). Therefore, Lavalley's applications for appeal are **GRANTED** as OCGA § 5-6-35 (j) requires.

Lavalley shall have ten days from the date of this order to file notices of appeal. The Clerk of the Superior Court is directed to include copies of this order in the appeal records transmitted to this Court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* FEB 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.*

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

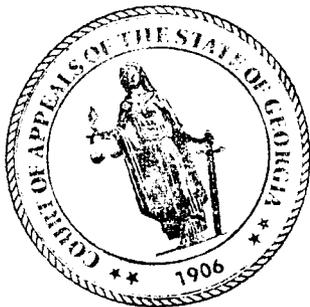
ATLANTA, FEB 04 2009

*The Court of Appeals hereby passes the following order:*

**A09D0224. NYE LAVALLE v. EDWARD JARRETT.**  
**A09D0225. NYE LAVALLE v. JOSEPH GRENUK.**

Nye Lavalley filed these applications for discretionary appeal seeking review of contempt orders and default stalking permanent protective orders. A judgment of contempt is directly appealable. OCGA § 5-6-34 (a) (2); *In re Booker*, 186 Ga. App. 614 (367 SE2d 850) (1988). Further, the protective orders, which enjoin and restrain Lavalley from certain conduct, constitute injunctions subject to direct appeal under OCGA § 5-6-34 (a) (4). Therefore, Lavalley's applications for appeal are **GRANTED** as OCGA § 5-6-35 (j) requires.

Lavalley shall have ten days from the date of this order to file notices of appeal. The Clerk of the Superior Court is directed to include copies of this order in the appeal records transmitted to this Court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* FEB 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.*

*Will. L. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 13, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0226  
CAROL VARKONY V. LYNDON PROPERTY INSURANCE CO.

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

70019

SU08CV022



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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,                      FEBRUARY 12, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0227

NONIE MADDOX V. FULTON COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

71019

NONE



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **FEB 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 above written.*

*Clerk.*

*Willi L. Martinez*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 18, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0228  
ALEX MURILLO V. MONICA MURILLO

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.

92019

2008CV151099



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*      **FEB 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. McIntosh*

**Court of Appeals  
of the State of Georgia**

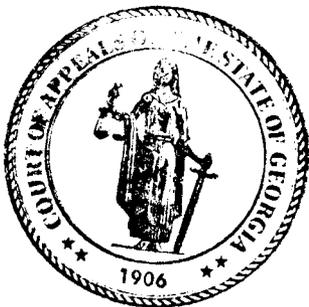
ATLANTA, MARCH 05, 2009

*The Court of Appeals passed the following order*

Case No. A09D0228

ALEX MURILLO V. MONICA MURILLO

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 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, FEBRUARY 12, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0229  
SELECTIVE HR SOLUTIONS, INC., D/B/A ECONO AUTO PAINTING,  
INC., ET AL V. MARIA M. MULLIGAN

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.

97019

08CV49934



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **FEB 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. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* FEB 25 2009

**A09D0230. FRED L. MURRAY, JR. v. HYACINTH WALKER-MURRAY.**

Fred L. Murray, Jr. seeks discretionary review of two separate orders that the trial court entered in two separate cases. In one order, entered in Case No. 07CV-12467-4, the trial court dismissed Murray's complaint against Hyacinth Walker-Murray for want of prosecution. In the other order, entered in Case No. 05CV-13114-4, the trial court denied Murray's motion to set aside a 2005 family violence protective order that Walker-Murray had obtained against him.

The order dismissing Murray's complaint is a final order within the meaning of OCGA § 5-6-34 (a) (1) and therefore may be directly appealed. This court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not filed a timely notice of appeal. Because it appears that Murray has not already filed a notice of appeal in Case No. 07CV-12467-4, his application to appeal the final order of dismissal in that case 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 record transmitted to this Court.

The order denying Murray's motion to set aside may be appealed only by application for discretionary appeal. See OCGA § 5-6-35 (a) (8). Murray's application to appeal that order is DENIED on the merits.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* FEB 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.*

*Willie L. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 30, 2009

*The Court of Appeals passed the following order*

Case No. A09D0230

FRED L. MURRAY, JR., V. HYACINTH WALKER-MURRAY

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 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*

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:** April 20, 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 **S09C1281**

FRED L. MURRAY, JR. v. HYACINTH WALKER-MURRAY

Clerk, Supreme Court of Georgia

Case No. A09D0230

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. S09C1281

Atlanta, June 29, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

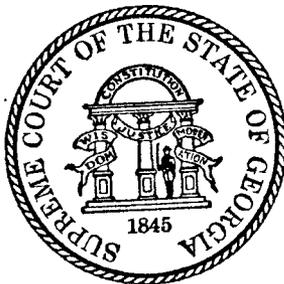
FRED L. MURRAY, JR. v. HYACINTH WALKER-MURRAY

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. A09D0230

RECEIVED 11:00 AM  
2009 JUL 15 PM 4:12  
Clerk's Office  
Supreme Court of Georgia



**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.

*Thomas S. Bann* Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0231  
TAWHEEDA S. MATTOX V. THE STATE

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

96020

SU08CV0359



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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.*

*Willie L. Mattox*

**Court of Appeals  
of the State of Georgia**

ATLANTA, FEBRUARY 16, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0232

IN THE INTEREST OF: D. B. S. , A CHILD ( FATHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98020

07926



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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.*

*Will. L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

FEB 25 2009

**A09D0233. CLIFFORD B. HAMBRICK v. THE STATE.**

According to his application brief, Clifford Hambrick pled guilty in 2007 to trafficking in cocaine and was sentenced to seven years' imprisonment. He later filed an extraordinary motion for new trial, in which he argued that his guilty plea was not voluntary and that his sentence was not justified. The trial court denied the motion, and Hambrick now seeks discretionary appellate review.

"One who has entered a plea of guilty cannot move for a new trial, as there was no trial." *Davis v. State*, 274 Ga. 865, 866 (561 SE2d 119) (2002). Moreover, Hambrick's motion cannot be treated as a motion to withdraw his guilty plea, because it appears that the motion was filed outside the term of court in which the plea was entered. See *Harris v. State*, 278 Ga. 805, 807 (2) (606 SE2d 248). Under these circumstances, the only means available to Hambrick to challenge his guilty plea and resulting sentence is through habeas corpus proceedings. *Davis*, supra at 865. Because the trial court was without jurisdiction to grant meaningful relief, Hambrick's application is moot and it is therefore *DISMISSED* for lack of jurisdiction.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

FEB 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.*

*Willie L. Mat...*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0234  
ROBERT P. MCFARLAND, SR., INDIVIDUALLY AND AS COUNSEL  
OF RECORD FOR LAMAR PRUITT V. LILLIE MAE WILKINS ET AL

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

93020

5273



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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, MARCH 04, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0235

CITY OF ATLANTA, ET AL V. PEACHTREE PARK CIVIC ASS'N, INC.,  
ET AL.

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

91020

2007CV133707



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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. Martinez*

**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.*

*Willie L. Martin*

**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.*

*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:** March 27, 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 **S09C1128**

COACHMEN RV COMPANY OF GEORGIA et al. v. STINCHCOMB

Clerk, Supreme Court of Georgia

Case No. A09D0236

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 01 2009

Clerk, Court of Appeals of Georgia

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0237

JASON HOPSON V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

70020

2004SC22730



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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,                      FEBRUARY 23, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0238

IN THE INTEREST OF: D. B. S. , A CHILD ( MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98021

07926



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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 above written.*

*Clerk.*

*Willie L. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 19, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0239

IN THE INTEREST OF: S. H. D. A. , A CHILD (MOTHER)

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

71020

0801390



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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 L. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals hereby passes the following order:*

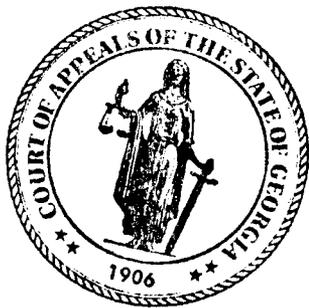
APPLICATION NO.            A09D0240

JOSEPH ROMANO V. GA DEPT OF CORRECTIONS 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.

92020

NONE



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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,

The Court of Appeals hereby passes the following order: **FEB 17 2009**

**A09D0241. WAL-MART STORES, INC. ET AL. v. ROBERT TROUPE.**

Wal-Mart Stores, Inc. and its workers' compensation insurer moved to dismiss Robert Troupe's claim for workers' compensation income benefits for an injury to his right arm. An administrative law judge denied the motion to dismiss. The applicants appealed to the State Board of Workers' Compensation, which affirmed. The superior court affirmed the appellate division. The applicants now seek discretionary review in this court.

Only final workers' compensation awards or decisions may be appealed to the superior court. OCGA § 34-9-105 (b). In this case, the order of the appellate division was an interlocutory ruling, as it leaves Troupe's claim for benefits pending. "The Work(ers') Compensation Act makes no provision for an appeal to the superior court from a decision by the [appellate division] other than one which grants or denies compensation." *Garner v. Owens-Illinois Glass*, 134 Ga. App. 917 (216 SE2d 709) (1975); OCGA § 34-9-105 (b)." *Conwood Corp. v. Guinn*, 190 Ga. App. 595 (379 SE2d 621) (1989). The superior court thus lacked jurisdiction to decide the case and should have declined to review the appeal. See *Cartwright v. Midtown Hospital*, 243 Ga. App. 828 (534 SE2d 504) (2000).

Because we conclude that the superior court did not address a final workers' compensation award, this application presents nothing for review. It is therefore **DISMISSED** as premature. See *Gilman Paper Co. v. Davis*, 230 Ga. App. 364 (496 SE2d 469) (1998).



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta

**FEB 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.

*Will. L. McIntire* Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 27, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0242

TECHNOLOGY INSURANCE COMPANY ET AL V. RICKEY WALLS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

95021

2008V94117



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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*

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:** March 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 **S09C1071**

TECHNOLOGY INSURANCE COMPANY et al. v. RICKEY WALLS

Clerk, Supreme Court of Georgia

Case No. A09D0242

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**MAR 20 2009**

Clerk, Court of Appeals of Georgia



# Court of Appeals of the State of Georgia

ATLANTA, March 2, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0243. DARRYL L. CONN v. THE STATE.**

Darryl Conn seeks discretionary review of the trial court's order denying his "Motion to Withdraw a Probation Revocation Plea Motion for Out of Time Appeal." The order was entered on November 20, 2008, but Conn did not file this application until February 6, 2009. 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. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Conn's application was filed 78 days after the order he seeks to appeal.<sup>1</sup> We therefore lack jurisdiction to consider it, and it is hereby DISMISSED. See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**MAR 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.

---

<sup>1</sup> Although this Court received Conn's application on December 11, 2008, application could not be filed and docketed at that time because it did not include certificate of service showing the complete name and mailing address of counsel.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* FEB 17 2009

**A09D0244. ELIZABETH M. YUREVICH v. SANDRA B. WILLIAMS A/K/A SANDRA B. YUREVICH.**

Elizabeth M. Yurevich filed this application for discretionary appeal of the grant of summary judgment to defendant Sandra B. Williams in Yurevich's suit on a note. An order granting summary judgment is subject to direct appeal. OCGA § 9-11-56 (h). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. Since it does not appear that the judgment at issue here is subject to the discretionary appeal procedure nor that Yurevich has filed a notice of appeal, her application for discretionary appeal is **GRANTED**. Yurevich 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 record transmitted to this Court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

FEB 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. Mat... Clerk.*

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.            A09D0245

REGINALD DAVIS V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90021

03CR311



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**FEB 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 above written.*

*Clerk.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* FEB 25 2009

**A09D0246. DEDRA GHEE v. TARGET NATIONAL BANK.**

Pursuant to OCGA § 9-15-2 (d), the trial court denied the filing of Dedra Ghee's motion to set aside Target National Bank's judgment against her. Ghee then filed an application for discretionary review in this Court. All documents filed in this Court "shall show copies have been furnished to opposing counsel. . . . Any document without a certificate of service shall not be accepted for filing. The certificate of service shall be signed by counsel and attached to the document filed." Court of Appeals Rule 6.

Although Ghee included a document titled "Certificate of Service" with her application, the text of the document states that "[s]ervice *will not* be made on the opposing party." (Emphasis supplied.) In light of Ghee's failure to furnish opposing counsel with a copy of her application for discretionary review, the application is hereby DISMISSED.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

FEB 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.*

*Willie L. Martin*, Clerk.

# Court of Appeals of the State of Georgia

April 14, 2009

ATLANTA,

*The Court of Appeals hereby passes the following order:*

## **A09D0246. DEDRA GHEE v. TARGET NATIONAL BANK**

Applicant Ghee's motion for reconsideration is denied. Ghee wilfully refused to serve a copy of her application upon respondent Target National Bank of Florida in intentional violation of Court of Appeals Rule 6 and OCGA § 5-6-35 (d). The document she filed with her application entitled "Certificate of Service" stated that "[s]ervice will not be made on the opposing party."

Ghee's reliance on *Petroleum Carrier Corp. v. Jones*, 127 Ga. App. 676 (194 SE2d 670) (1972), is misplaced. This is not a case in which Target National Bank waived her refusal to serve it with a copy of her application. Target National Bank's response did not address the merits of Ghee's application, but merely raised her failure to serve it with her application as required by OCGA § 5-6-35 (d) ("a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties as provided by law, except that the service shall be perfected at or before the filing of the application.") Further, neither *Petroleum Carrier Corp.* nor the cases cited therein involved the willful refusal to comply with 5-6-35 (d) and the Rules of this court. Accordingly, Ghee's application was properly dismissed.

Accordingly, Ghee's motion to strike Target National Bank's response to her

application and her motion to amend her Certificate of Service are dismissed as moot.



*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.

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 04, 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 **S09C1395**

DEDRA GHEE v. TARGET NATIONAL BANK F/K/A RETAILERS NATIONAL BANK  
-TARGET VISA

Clerk, Supreme Court of Georgia

Case No. A09D0246

Court of Appeals of Georgia

Notice of Petition for Certiorari

MAY 06 2009

filed in office

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1395

Atlanta, June 29, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DEDRA GHEE v. TARGET NATIONAL BANK F/K/A RETAILERS NATIONAL BANK  
-TARGET VISA

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. A09D0246

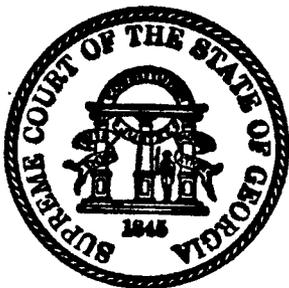
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JUL 29 PM 4:08

JUL 30 2009

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta July 28, 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. Bane*, Clerk.

**SUPREME COURT OF GEORGIA**

Case No. S09C1395

Atlanta, July 28, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

DEDRA GHEE v. TARGET NATIONAL BANK F/K/A RETAILERS NATIONAL  
-TARGET VISA

Upon consideration of the Motion for Reconsideration  
filed in this case, it is ordered that it be hereby denied.

Hunstein, C.J., Carley, P.J., Benham, Thompson, Hines  
and Melton, JJ., concur.

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta JUL 28 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.

*Therese S. Barnes, Clerk*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **FEB 25 2009**

**A09D0247. CHARLES SWEETENBURG v. THE STATE.**

On February 10, 2009, Charles Sweetenburg filed this application for discretionary appeal of a January 8, 2009 order.<sup>1</sup> To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Sweetenburg filed his application 33 days after entry of the order he seeks to appeal. His untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*Will L. Martin*, Clerk.

---

<sup>1</sup>Sweetenburg's original submission was not accepted for filing because it lacked a copy of the order he sought to appeal as required by OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e). Additionally, the certificate of service failed to show the complete name and mailing address of opposing counsel as required by Court of Appeals Rule 6.

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:** March 23, 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 **S09C1084**

CHARLES SWEETENBURG v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0247

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAR 25 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1084

Atlanta, May 18, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

CHARLES SWEETENBURG 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.

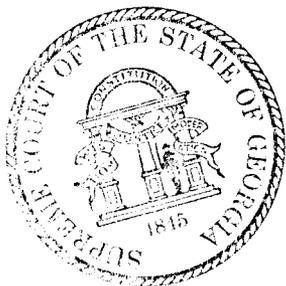
All the Justices concur.

Bill of Costs, \$80.00  
Court of Appeals Case No. A09D0247

*Clifford M. ...*  
CLERK OF THE SUPREME COURT OF GEORGIA

2009 JUN - 8 AM 11:36

RECEIVED IN OFFICE



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta June 04, 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 Eison, Deputy* Clerk.



**SUPREME COURT OF GEORGIA**

Case No. **S09C1084**

Atlanta **May 18, 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**CHARLES SWEETENBURG v. THE STATE**

The Court of Appeal's order dismissing petitioner's untimely application to appeal was entered on February 25, 2009. Thus, the petition for certiorari was due to be filed by March 17, 2009. Supreme Court Rule 38 (2). Because it was not filed until March 23, 2009, it is untimely, and it is ordered that it be dismissed.



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta

**JUN - 5 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 Edison*, Deputy Clerk

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 09, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0248  
CINDY MILLOY V. NORTHWOOD APARTMENTS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94021

2008V661



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **MAR 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. Mat... [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA, March 4, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0249. MULLIGAN v. SELECTIVE HR SOLUTIONS, INC., d/b/a  
ECONO AUTO PAINTING et al.**

Maria Mulligan seeks to appeal the order of the superior court, affirming the award of the State Board of Workers' Compensation with respect to its finding that she had not sustained a compensable change of condition for the worse. The superior court's order was entered January 9, 2009. Mulligan filed her application 33 days later on February 11, 2009. An application for discretionary appeal must be filed within 30 days of the order from which the applicant seeks to appeal.<sup>1</sup> Because this application is untimely, we lack jurisdiction to consider it, and it is therefore 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. Martinez* Clerk.

---

<sup>1</sup> See OCGA § 5-6-35 (d).

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 04, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0250

COVALENCE SPECIALTY MATERIALS CORP., ET AL V. GENEVA POST

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70021

08CV1205



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAR 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*

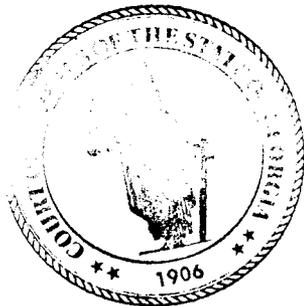
# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **FEB 20 2009**

**A09D0251. AMY ALEXANDER v. CHRISTOPHER WILLINGHAM.**

Amy Alexander filed a petition to modify the child custody and child support provisions of the parties' divorce decree. She now seeks to appeal the child support award. 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 only issue in the application involves child support, this Court lacks appellate jurisdiction over this application. See, e.g., *Upchurch v. Smith*, 281 Ga. 28 (635 SE2d 710) (2006); *Falkenberry v. Taylor*, 278 Ga. 842 607 SE2d 567) (2005); *Staffon v. Staffon*, 277 Ga. 179 (587 SE2d 630) (2003); *Hulett v. Sutherland*, 276 Ga. 596 (581 SE2d 11) (2003); *Wingard v. Paris*, 270 Ga. 439 (511 SE2d 167) (1999). Accordingly, this application is **TRANSFERRED** to the Supreme Court of Georgia.



*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 written.*

*Will. L. Martinez*, Clerk.

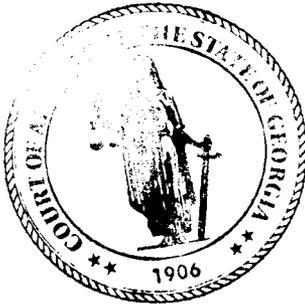
# Court of Appeals of the State of Georgia

ATLANTA, February 25, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0252. ESSEX v. ESSEX.**

On February 13, 2009, John Essex filed an application for discretionary appeal, seeking review of an order entered January 7, 2009. 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.<sup>1</sup> Because Essex filed his application 37 days after entry of the order he seeks to appeal, his application is untimely. His application for discretionary appeal is therefore DISMISSED for lack of jurisdiction.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**FEB 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.*

*Will L. Martin*, Clerk.

---

<sup>1</sup> 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,

*The Court of Appeals hereby passes the following order:* FEB 26 2009

**A09D0252. ESSEX v. ESSEX.**

Lynne Essex has filed a motion to dismiss the application for discretionary appeal filed by John Essex. The application, however, was dismissed by order dated February 25, 2009. Accordingly, this motion is hereby DISMISSED as MOOT.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* FEB 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. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,                      FEBRUARY 27, 2009

*The Court of Appeals hereby passes the following order:*

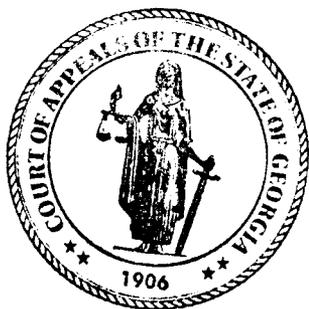
APPLICATION NO.            A09D0253

BRUCE T. JONES V. THE STATE

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

95022

CV071520



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**FEB 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 above written.*

*Clerk.*

*Willie L. Martin*



**SUPREME COURT OF GEORGIA**  
Case No. S09D0593

Atlanta

**JAN 26 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**JOHNNY LEE DAVIS v. THE STATE**

From the Superior Court of Clayton County.

After the trial court denied applicant's motions to quash and to dismiss which were filed in his criminal case, he sought a certificate of immediate review, see OCGA § 5-6-34 (b), which the trial court denied. Applicant nonetheless filed this application for appeal seeking review of the trial court's decisions. Although applicant seeks to invoke this Court's jurisdiction over habeas corpus cases, the record does not support the conclusion that this case involves a petition for a writ of habeas corpus. Further, because it does not appear that applicant stands accused of a crime that falls within this Court's subject matter jurisdiction, see OCGA § 15-3-3, and because no other basis for this Court's jurisdiction is apparent from the application, it must be and 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.

*Janette Eason*, Deputy Clerk

# Court of Appeals of the State of Georgia

ATLANTA,

March 4, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0254. JOHNNY LEE DAVIS v. THE STATE.**

Johnny Lee Davis seeks to challenge the denial of motions he filed in his criminal case. Because the case is pending below, Davis was required to follow the interlocutory appeal procedures of OCGA § 5-6-34 (b). *Stewart v. State*, 240 Ga. App. 154 (522 SE2d 743) (1999). The Court observes that a party may employ the interlocutory appeal procedure only when the trial court grants a certificate of immediate review certifying that an interlocutory order is of such importance to the case that immediate review should be had. Here, the superior court expressly declined to grant Davis a certificate of immediate review. Davis's failure to comply with the interlocutory appeal procedures of OCGA § 5-6-34 (b) deprives this Court of jurisdiction to consider his application, which is therefore **DISMISSED**.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*Willie L. Mat... Clerk.*

CLERK'S OFFICE

SUPREME COURT of GEORGIA

244 Washington Street, Room 572  
Atlanta, Georgia 30334

(404) 656-3470

Business Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

**Docketing Date:** March 12, 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 **S09C1062**

JOHNNY-LEE DAVIS v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0254

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

**MAR 20 2009**

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1062

Atlanta, May 18, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHNNY-LEE DAVIS 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.

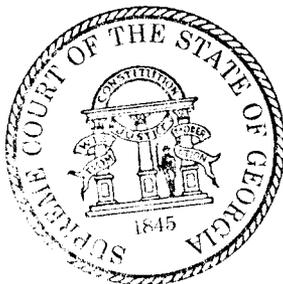
Bill of Costs, \$80.00  
Court of Appeals Case No. A09D0254

**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta June 04, 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.

RECEIVED IN OFFICE  
2009 JUN 9 11:15 AM  
CLERK'S OFFICE  
SUPREME COURT OF GEORGIA



**SUPREME COURT OF GEORGIA**  
Case No. S09D0730

Atlanta February 6, 2009

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09 FEB 20 AM 11:39

*Willie K. Meats, III*  
CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GA.

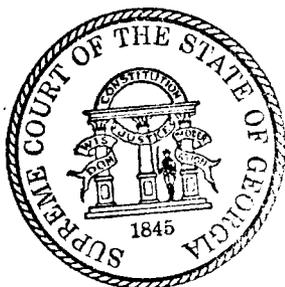
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

MARSHA CHAFARDON et al. v. JOSEPH RANIERE, JR., et al.

From the State Court of Fayette County.

Applicants filed a "petition for certiorari." However, there has been no ruling by the Court of Appeals from which a proper certiorari petition could be filed. Instead, it appears that applicants are attempting to challenge a judgment entered on a jury verdict in a civil case. However, no basis for subject matter jurisdiction in this Court appears in the record. Ga. Const. of 1983, Art. VI, Sec. VI, Para. II-III. Accordingly, the pleading 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.

*Leannette Eickson* Deputy Clerk

# Court of Appeals of the State of Georgia

ATLANTA,

MAR 11 2009

*The Court of Appeals hereby passes the following order:*

**A09D0255. MARSHA CHAFARDON et al. v. JOSEPH RANIERE, JR. et al.**

Marsha and Frank Chafardon seek review of “the opinions, verdict, orders and judgment” in their medical malpractice action, which was tried to a defense verdict in 2007.<sup>1</sup> However, we lack jurisdiction to conduct such a review.

Following the entry of judgment on the jury verdict, the Chafardons filed a motion for new trial. The trial court denied the motion. It appears that the Chafardons then filed a notice of appeal, which they have not included in their application materials. The defendants later moved to dismiss the notice of appeal, apparently due to the Chafardons’ failure to pay for the costs of the trial transcript. On December 16, 2008, the trial court granted defendants’ motion and dismissed the notice of appeal. Thirty-five days later, on January 20, 2009, the Chafardons filed the instant application.

An application for discretionary appeal must be filed within 30 days of the order from which the applicant seeks to appeal. OCGA § 5-6-35 (d). This application was filed more than 30 days after entry of the order dismissing the Chafardons’ notice of appeal. We therefore lack jurisdiction to consider it, and it is hereby DISMISSED. See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992).

---

<sup>1</sup> The Chafardons filed their “Petition for Writ of Certiorari” in the Supreme Court, which docketed it as an application for discretionary appeal and transferred it here.



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **MAR 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. Martinez*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 27, 2009

*The Court of Appeals passed the following order*

Case No. A09D0255

MARSHA CHAFARDON ET AL V. JOSEPH RANIERE, JR., 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 MAR 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. McIntosh*

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:** April 30, 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 **S09C1393**

MARSHA CHAFARDON et al v. JOSEPH RANIERE et al.

Clerk, Supreme Court of Georgia

Case No. A09D0255

**MAY 06 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. S09C1393

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

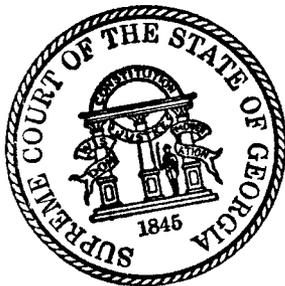
MARSHA CHAFARDON et al v. JOSEPH RANIERE et al.

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. A09D0255

RECEIVED IN OFFICE  
2009 OCT 16 PM 3:33  
Clerk/Court Administrator  
COURT OF APPEALS OF GA.  
*[Signature]*



**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.

*[Signature]*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 17, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0256

PETER I. OTOH V. GEORGIA DEPARTMENT OF HUMAN RESOURCES,  
EX. REL., OBIAJULU C. GREENE

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

90022

08CV3488



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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. Mat...*

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 17, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0256  
PETER I. OTOH V. GEORGIA DEPARTMENT OF HUMAN RESOURCES,  
EX. REL., OBIAJULU C. GREENE

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

90022

08CV3488



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**MAR 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. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 24, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0257

MARK ABRAHAM V. JANELL HANNAH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

93022

08A01405



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA, **MAY 14 2009**

*The Court of Appeals hereby passes the following order:*

**A09D0257. ABRAHAM v. HANNAH.**

Mark Abraham has filed a motion for reconsideration of the denial of his application for discretionary appeal. The motion for reconsideration is **GRANTED**, and this Court's order denying the application is **VACATED**. Upon consideration of the merits, the application is **GRANTED**. Abraham shall have ten days from the date of this order to file a 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*

**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: [Signature]*

, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, March 26, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0258. In the Interest of: D. M., a child.**

By order entered November 10, 2008, the juvenile court terminated the mother's parental rights to D. M. On February 25, 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. Here, the mother failed to file her application within this time. In recognition of this fact, the mother asks this Court to treat her application as timely. However, there is no basis in law for permitting such out-of-time application.<sup>1</sup> Accordingly, this Court lacks jurisdiction to entertain the mother's application, which is hereby DISMISSED.

We note, however, that the mother did file a timely notice of appeal from the juvenile court's order terminating her parental rights. On March 9, 2009, the Supreme Court made clear that a direct appeal is the proper method for appealing the termination of parental rights so long as the termination petition was filed before January 1, 2008.<sup>2</sup> We are unable to ascertain, from the application, when the termination petition was filed in this matter. If it was filed before January 1, 2008, then the mother may pursue a direct appeal.

---

<sup>1</sup> See *Wilson v. Carver*, 252 Ga. App. 174 (555 SE2d 848) (2001) (holding that this Court lacks authority to grant an extension of time for the filing of an application for discretionary appeal).

<sup>2</sup> See *In the Interest of K. R.*, Ga. (Case Number S08G1611, decided March 9, 2009).



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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, MARCH 20, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0259  
SIGNATURE FLOORS & DESIGN, INC., V. SAMUEL BARBER D/B/A  
SOUTHERN HERITAGE DEVELOPMENT, LLC ET AL

Upon consideration of the Application for Discretionary  
Appeal, it is ordered that it be hereby DENIED.

94022

08C05207



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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*

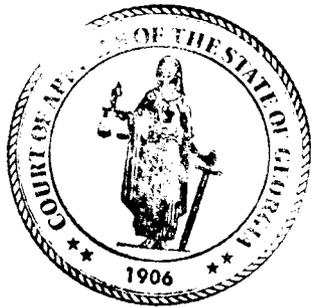
# Court of Appeals of the State of Georgia

ATLANTA, March 11, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0260. WILLIAM TERRENCE MURRAY v. THE STATE.**

On February 26, 2009, William Terrence Murray filed this application for discretionary appeal of a January 26, 2009 order. To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Murray filed his application 31 days after entry of the order he seeks to appeal. His untimely application for appeal is therefore **DISMISSED** for lack of jurisdiction.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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.*

*Will. L. Martin* Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, March 24, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0261. FLEMMING v. THE STATE.**

Steven Flemming has filed an application for discretionary appeal, seeking to appeal the trial court's order denying his extraordinary motion for new trial. Pursuant to OCGA § 5-6-35 (d), an application for discretionary appeal must be filed within thirty (30) days of the order sought to be appealed. Here, the trial court entered its order on October 9, 2008. Thus, Flemming's application, which was filed on February 25, 2009, is untimely. And this Court lacks jurisdiction to consider an untimely application.<sup>1</sup> Accordingly, Flemming's application for discretionary appeal is hereby **DISMISSED** for lack of jurisdiction.



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **MAR 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.*

*Willie L. Martin*, Clerk.

---

<sup>1</sup> See *Hill v. State*, 204 Ga. App. 582 (420 SE2d 383) (1992).

# Court of Appeals of the State of Georgia

ATLANTA, March 19, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0262. HERVE ONDOBO v. CITIBANK (SOUTH DAKOTA), N. A.**

Herve Ondobo filed this application for discretionary appeal of the grant of summary judgment to plaintiff Citibank (South Dakota), N. A. in Citibank's suit on an account. An order granting summary judgment is subject to direct appeal. OCGA § 9-11- 56 (h). This Court will grant an otherwise timely discretionary application pursuant to OCGA § 5-6-35 (j) if the order is subject to direct appeal and the applicant has not timely filed a notice of appeal. Since it does not appear that the judgment at issue here is subject to the discretionary appeal procedure nor that Ondobo has filed a notice of appeal, this application for discretionary appeal is *GRANTED*. Ondobo shall have 10 days from the date of this order to file a notice of appeal with the state court. The state court is instructed to include a copy of this order in the record transmitted to this Court.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **MAR 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.*

*Walter L. McIntosh*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **MAR 06 2009**

**A09D0263. RAYMOND P. TURNER v. JESSICA L. TURNER.**

Raymond P. Turner filed this application for discretionary appeal from the child support award in his final judgment and decree of divorce. The Supreme Court has general appellate jurisdiction in divorce and alimony cases. Ga. Const. of 1983, Art. VI, § VI, Par. III (6). Turner's appeal is therefore **TRANSFERRED** to the Supreme Court for disposition.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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.*

*Will L. Martin*, Clerk.

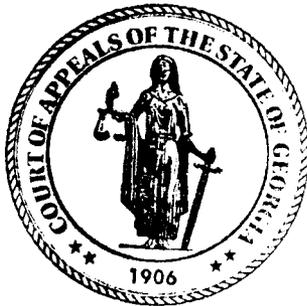
# Court of Appeals of the State of Georgia

ATLANTA, March 17, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0264. REDFORD v. GWINNETT JUDICIAL CIRCUIT, et al.**

Mike Redford, pro se, has filed an application for discretionary appeal purporting to challenge an order denying a motion to recuse.<sup>1</sup> However, the denial of a motion to recuse is not a final judgment and an appeal of such an order requires compliance with the interlocutory appeal procedures of OCGA § 5-6-34 (b).<sup>2</sup> Specifically, Redford was required to obtain a certificate of immediate review.<sup>3</sup> Redford's failure to comply with the interlocutory appeals procedures and obtain a certificate of immediate review deprives this Court of jurisdiction to consider this matter. Accordingly, this application is hereby DISMISSED.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**MAR 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.*

*Will L. Martin*, Clerk.

---

<sup>1</sup> Redford's application is woefully inadequate. Notably, he fails to include the motion he allegedly filed seeking the judge's recusal. See Court of Appeals Rules 30 (d) and 31 (b); see also OCGA § 5-6-35 (c).

<sup>2</sup> See *Ellis v. Stanford*, 256 Ga. App. 294, 295 (2) (568 SE2d 157) (2002).

<sup>3</sup> See OCGA § 35-6-34 (b).

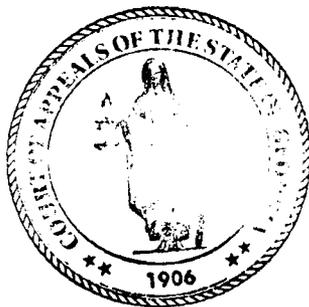
# Court of Appeals of the State of Georgia

ATLANTA, March 12, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0265. WILLIAM PAUL DAWSON v. THE STATE.**

William Paul Dawson filed this application for discretionary appeal of an order denying his motion for an out-of-time appeal. The denial of a motion for out-of-time appeal is directly appealable, however. *Lunsford v. State*, 237 Ga. App. 696 (515 SE2d 198) (1999). Therefore, Dawson's application is *GRANTED* under OCGA § 5-6-35 (j). Dawson shall have ten days from the date of this order to file his notice of appeal with the trial court. The clerk of the superior court is directed to include a copy of this order in the record transmitted to this Court.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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.*

*Willie L. Martin*  
Clerk.

# Court of Appeals of the State of Georgia

ATLANTA, March 11, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0266. CARLOS A. SKEETE v. MIKE MOON ET AL.**

Carlos A. Skeete filed this application for discretionary appeal from a superior court order denying his motion for summary judgment. The denial of a motion for summary judgment, however, must be appealed in accordance with the interlocutory appeal procedures set forth in OCGA § 5-6-34 (b). See *Pace Constr. Corp. v. Northpark Assoc.*, 215 Ga. App. 438, 439 (450 SE2d 828) (1994). Because Skeete failed to comply with the requisite interlocutory procedures, this application is premature and is hereby **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. Mant...*

, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

**MAR 26 2009**

*The Court of Appeals hereby passes the following order:*

**A09D0267. THOMPSON v. THE STATE.**

Upon consideration of the Application for Discretionary Appeal, it is ordered that it is hereby DENIED. The subsequent "Motion to Abide by OCGA § 5-6-35" filed by Thompson is also DENIED.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**MAR 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.

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:** April 15, 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 **S09C1275**

JAMES E. THOMPSON v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0267

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

APR 17 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1275

Atlanta, June 29, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

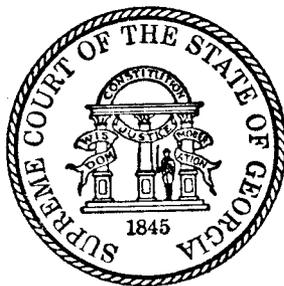
JAMES E. THOMPSON v. THE STATE

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. A09D0267

RECEIVED IN OFFICE  
2009 AUG 10 PM 2:13  
JAMES E. THOMPSON  
COURT OF APPEALS



**SUPREME COURT OF THE STATE OF GEORGIA**

Clerk's Office, Atlanta August 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.

*Thomas S. B.*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA,            MARCH            18, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION    NO.            A09D0268  
JONATHON HEART BROWN V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

90023

076407



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*    **MAR 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*

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:** April 29, 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 **S09C1355**

JOHNATHAN HEART BROWN v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0268

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

MAY 01 2009

Clerk, Court of Appeals of Georgia



**SUPREME COURT OF GEORGIA**

Case No. **S09C1355**

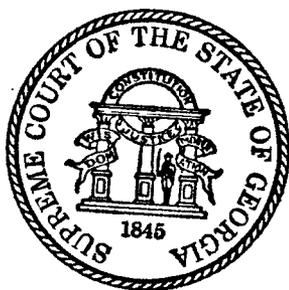
Atlanta **September 8, 2009**

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**JONATHAN HEART BROWN v. THE STATE**

On March 18, 2009 the Court of Appeals denied petitioner's application to appeal the revocation of his probation. Thus, the petition for certiorari was due by April 7, 2009. Sup. Ct. R. 38 (2). Because the petition was not filed until April 29, 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

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1355

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

JOHNATHAN HEART BROWN 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, \$80.00  
Court of Appeals Case No. A09D0268

RECEIVED IN OFFICE  
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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 B. Jones*, Clerk.

**Court of Appeals  
of the State of Georgia**

**ATLANTA,                    MARCH                    16, 2009**

*The Court of Appeals hereby passes the following order:*

APPLICATION NO.                    A09D0269

MATTHEW CLAY ET AL V. DOUGLAS MCKELVEY 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.

93023

06CV01108



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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, Jr.*

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0270  
JAMES VAN BONNER V. ALICE BONNER

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91023

08CV03158



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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... [Signature]*

# Court of Appeals of the State of Georgia

ATLANTA, March 23, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0271. MUHAMMED YUSUF v. THE STATE.**

Muhammed Yusuf filed this application for discretionary appeal on March 5, 2009, seeking an appeal from a November 25, 2008 order denying his "Motion to Vacate a Void Judgment From Inception and Illegal Sentence."<sup>1</sup> To be valid, however, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA § 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). Yusuf's application was filed 100 days after the order he seeks to appeal. His untimely application for appeal is therefore *DISMISSED* for lack of jurisdiction.

*Court of Appeals of the State of Georgia*  
Clerk's Office, Atlanta **MAR 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. Martinez*, Clerk.



---

<sup>1</sup> Yusuf submitted his application on December 19, 2008, but it was not accepted for filing at that time because it did not include a copy of the order Yusuf sought to appeal. See OCGA § 5-6-35 (c); Court of Appeals Rule 31 (e).

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 14, 2009

*The Court of Appeals passed the following order*

Case No. A09D0271

MUHAMMED YUSUF V. THE STATE

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta APR 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*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1326

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

YUSUF MUHAMMED 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. A09D0271

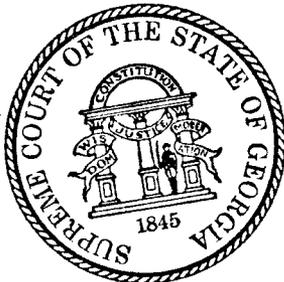
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2009 SEP 25 PM 4:13  
CLERK/COURT ADMINISTRATOR  
OFFICE OF THE CLERK OF THE SUPREME COURT OF GEORGIA

**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.



*Theresa B. [Signature]*, 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:** April 23, 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 **S09C1326**

YUSUF MUHAMMED v. THE STATE

Clerk, Supreme Court of Georgia

Case No. A09D0271

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

APR 29 2009

**Court of Appeals  
of the State of Georgia**

ATLANTA, MARCH 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0272

ALBERT BASS ET AL V. CATHERINE DENISE BASS

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70023

07CV2216



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAR 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... [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. Martinez*, Clerk.

# Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order: **MAR 26 2009**

**A09D0274. IN THE INTEREST OF: R. J. and J. G., CHILDREN (MOTHER).**

The mother of R. J. and J. G. seeks discretionary review of the juvenile court's order denying her timely-filed motion for new trial in this parental rights termination case. 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 December 14, 2007, so the mother has a right of direct appeal from the termination order. This application is therefore GRANTED under OCGA § 5-6-35 (j). The mother shall have ten days from the date of this order to file her notice of appeal with the trial 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 **MAR 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, MARCH 24, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0275

DARRYL HOWARD V. THE STATE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97023

SU08CR0046



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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, MARCH 25, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0276  
WORLDSPAN, LP V. STATE OF GEORGIA DEPARTMENT  
OF REVENUE

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.

99023

07GC086763



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAR 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.*  
*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA, March 31, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0277. NANCY G. HICKS v. WAL-MART STORES EAST, LLP.**

On January 7, 2009, the trial court entered an order granting summary judgment to Wal-Mart Stores in Nancy G. Hicks' premises liability action. On March 11, 2009, Hicks filed an application for discretionary appeal in this Court.

An order granting summary judgment may be appealed directly; no application is required. OCGA §§ 5-6-34 (a) (1) and 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. Hicks' 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). Hicks' application was not filed until 63 days after the entry of the summary judgment order.<sup>1</sup> We lack jurisdiction to consider this untimely application, which is therefore DISMISSED. See *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).



*Court of Appeals of the State of Georgia* . . . . .  
*Clerk's Office, Atlanta*

*I certify that the above is a true extract from  
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*William L. Martinez*, Clerk.

---

<sup>1</sup> Hicks first sent a brief to this Court on February 7, 2009 – 31 days after entry of the summary judgment order. That brief could not be docketed as an application for discretionary appeal, however, because it did not include the materials necessary for such an application. For example, Hicks failed to submit a copy of the order she sought to appeal. See OCGA § 5-6-35 (c).

# Court of Appeals of the State of Georgia

ATLANTA, March 20, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0278. IN THE INTEREST OF M. W. AND M. W., CHILDREN (MOTHER).**

The mother of M. W. and M. W. seeks discretionary review of the juvenile court's order terminating her parental rights. Among other arguments, the mother challenges the constitutionality of OCGA § 5-6-35 (a) (12), which requires an application for discretionary appeal from an order terminating parental rights. The Supreme Court has exclusive appellate jurisdiction over all cases in which the constitutionality of a statute is called into question. See Ga. Const. Art. VI, Sec. VI, Par. II (1). "[I]n order to invoke that jurisdiction, the record must show that the trial court specifically passed on the constitutional issue." *Fulton County v. Galberaith*, 282 Ga. 314, 315 (1) (647 SE2d 24) (2007).

The mother's application materials do not demonstrate that her constitutional challenge has been preserved for appellate review. Out of deference to the Supreme Court's appellate jurisdiction, however, this Court deems it appropriate to assume for present purposes that an unsuccessful constitutional challenge to the validity of OCGA § 5-6-35 (a) (12) was properly made and expressly denied, or that this issue has otherwise been preserved for potential appellate review.<sup>1</sup>

We therefore **TRANSFER** this application to the Supreme Court for disposition.

---

<sup>1</sup>As a practical matter, we question whether a challenge to the constitutionality of an *appellate* procedure can be litigated in a *trial* court.



*Court of Appeals of the State of Georgia*  
*Clerk's Office, Atlanta* **MAR 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, MARCH 27, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0279

CONSTANCE VICTOR V. DEKALB COUNTY BOARD OF EDUCATION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

98024

08CV3288



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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,

*The Court of Appeals hereby passes the following order:* **APR 01 2009**

**A09D0280. DEODORIC WENDELL FLEMING v. THE STATE.**

Applicant Deodoric Wendell Fleming's "Withdrawal of Application for Discretionary Appeal" is hereby GRANTED.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

*I certify that the above **APR 01 2009** and ~~extract~~ from  
the minutes of 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, MARCH 26, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0281  
SUSAN T. QUINBY V. CHRISTIAN J. RAUSCH

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby GRANTED. The Appellant may file a Notice of Appeal within 10 days of the date of this order. The Clerk of SUPERIOR COURT is directed to include a copy of this order in the record transmitted to the Court of Appeals.

93024

09CV1842



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **MAR 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*

91-024

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 08, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0282

IN THE INTEREST OF: J. W. , A CHILD (MOTHER)

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

91024

081560



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta* **APR 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.*

*Willi L. Martinez*

# Court of Appeals of the State of Georgia

ATLANTA, March 26, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0284. ALTHEA MILEY v. THORNBURG MORTGAGE HOMES LOANS, INC.**

In *Miley v. Thornburg Mortg. Home Loans, Inc.*, 294 Ga. App. 140 (668 SE2d 560) (2008), we affirmed the trial court's grant of a writ of possession in favor of Thornburg Mortgage Home Loans, Inc., its dismissal of Althea Miley's counterclaims, and its order requiring her to pay rent into the court. Upon receiving the remittitur, the trial court entered an order on March 5, 2009, making our opinion the judgment of that court. On March 13, 2009, Miley filed this application for discretionary appeal. We lack jurisdiction.

Appeals in dispossessory actions must be filed within seven days after entry of the order at issue. OCGA § 44-7-56; *Ray M. Wright, Inc. v. Jones*, 239 Ga. App. 521 (521 SE2d 456) (1999). Because Miley filed her application eight days after entry of the order she challenges, her application is untimely and is therefore **DISMISSED** for lack of jurisdiction.<sup>1</sup>

---

<sup>1</sup>Miley's original submission was not accepted for filing because it lacked a copy of the order she sought to appeal as required by OCGA § 5-6-35 (c) and Court of Appeals Rule 31 (e).



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta

**MAR 26 2009**  
I certify that the above is a true ~~copy~~ from  
the minutes of the Court 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 01, 2009

*The Court of Appeals hereby passes the following order:*

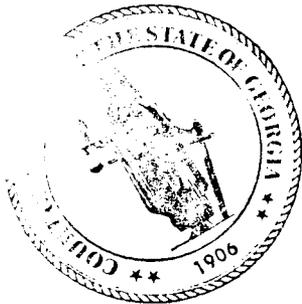
APPLICATION NO. A09D0285

ROBERT S. HARRINGTON, JR. V. JUSTIN BENEFIELD ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71024

07CV1541



*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.*

*Clerk.*

*Will L. Martin*

# Court of Appeals of the State of Georgia

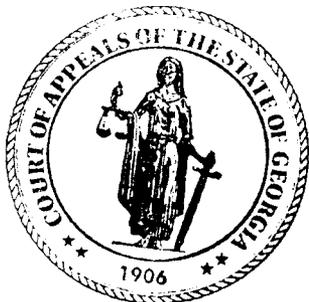
ATLANTA,

The Court of Appeals hereby passes the following ~~order~~<sup>April 8, 2009</sup>.

## **A09D0286. CAREY SLANTON et al. v. JJM TRUCKING et al.**

JJM Trucking and Jesse Miller, Jr. sued Carey Slanton and two other defendants (collectively, "Slanton") for negligence. A jury awarded JJM Trucking and Miller \$4,688.00 in damages and \$22,650.00 in attorney fees and litigation costs. Slanton filed a timely motion for judgment notwithstanding the verdict, which the trial court denied. Slanton then filed a timely notice of appeal in the trial court, as well as the instant application for discretionary appeal in this Court.

The exhibits included with this application reveal no basis for concluding that the trial court's order denying the motion for judgment notwithstanding the verdict should be subject to the discretionary appeal procedure.<sup>1</sup> See OCGA § 5-6-35 (a). Because it appears that Slanton is entitled to bring a direct appeal under OCGA § 5-6-34 (a), this Court would ordinarily grant this application for discretionary appeal pursuant to OCGA § 5-6-35 (j). However, Slanton has already filed a notice of appeal in the trial court. This application is therefore **DISMISSED** as duplicative.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 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.

---

<sup>1</sup> Although the trial court's order mentions only the attorney fee portion of the jury verdict, Slanton's motion for judgment notwithstanding the verdict challenged both the damages award and the attorney fee award.

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 02, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0287

LASHAUN SMOOT V. CITY OF ATLANTA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

97024

2008CV159943



*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.*

*Clerk.*

*Will L. Mat...*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:*

**JUN 05 2009**

**A09D0288. LEWIS v. THE STATE.**

On March 24, 2009, this Court dismissed Viondi Lewis' application for discretionary appeal as untimely. Lewis filed a motion for reconsideration, which we also dismissed as untimely by order dated April 16, 2009. Lewis has now filed a motion for permission to file a second motion for reconsideration.<sup>1</sup> As noted in our prior order, however, we are without jurisdiction to reconsider Lewis' application. Accordingly, this motion is 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  
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*Witness my signature and the seal of said court  
hereto affixed the day and year last above written.*

*Willie L. Mat... Clerk.*

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<sup>1</sup> See Court of Appeals Rule 37.

# Court of Appeals of the State of Georgia

ATLANTA, March 31, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0289. JERRY LARRY COLLIER v. THE KROGER COMPANY.**

Jerry Larry Collier filed a complaint against The Kroger Company, apparently alleging tort claims. The state court denied filing of Collier's complaint pursuant to OCGA § 9-15-2 (d) on the ground that there is no justiciable issue of law or fact on which the court could grant relief to Collier. Collier then filed this application for discretionary appeal.

An order denying filing under OCGA § 9-15-2 (d) is not in and of itself subject to the discretionary appeal procedure requirements of OCGA § 5-6-35. Moreover, no provision of subsection (a) of OCGA § 5-6-35 is applicable to this case. The order, therefore, is directly appealable, and Collier's application for appeal is hereby *GRANTED* as required under OCGA § 5-6-35 (j). Collier shall have ten days from the date of this order to file a notice of appeal with the state court, which is instructed to include a copy of this order in the appeal record transmitted to this Court.



Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta **MAR 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.*

*Will L. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 07, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0290  
CYNTHIA OSTROWSKI V. GERALD OSTROWSKI

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

96025

2008V1002



*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.*

*Willie L. Martin*

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 07, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0291

CHATTOOGA COUNTY BOARD OF EDUCATION V. FANNIE SEARELS

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.

98025

2008CA33765

*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.

*Willie L. Martin*

# Court of Appeals of the State of Georgia

ATLANTA, April 7, 2009

*The Court of Appeals hereby passes the following order:*

## **A09D0292. DAVID CHARLES SUTTON v. THE STATE.**

David Charles Sutton was found guilty of kidnapping with bodily injury and simple battery. We affirmed his convictions on appeal. *Sutton v. State*, 236 Ga. App. 363 (511 SE2d 888) (1999). Since then, we have dismissed or denied Sutton's numerous other unauthorized appeals and applications for discretionary appeal. See A03A1633, A04A1703, A04D0129, A04D0290, A05A0890, A05A1721, A05A2091, A05D0404, A06D0401, A07A1819, and A08D0287.

In this application, Sutton seeks discretionary review of an order denying his "Motion for Release From Judgment" and various other motions. Sutton also filed a direct appeal from the same order, which we dismissed for lack of jurisdiction. See A09A1319. As explained in the order dismissing that direct appeal, Sutton's latest motions again fail to raise any issue that could not have been raised in his first appeal. Sutton is not entitled to repeated appeals. See *Jackson v. State*, 273 Ga. 320 (540 SE2d 612) (2001).

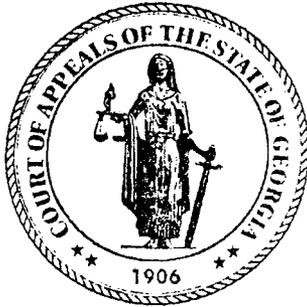
Moreover, this application is untimely. The order that Sutton seeks to appeal was entered on January 28, 2009, but Sutton did not file his application until 48 days later, on March 17, 2009.<sup>1</sup> To be valid, an application for discretionary appeal must be filed within 30 days of the entry of the order or judgment to be appealed. OCGA

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<sup>1</sup> Sutton initially submitted his application to the Supreme Court, which transferred it here. Because Sutton's application did not include a filing fee or sufficient pauper's affidavit, however, we were unable to docket it. See OCGA § 5-6-4. We received Sutton's pauper's affidavit, and docketed his application, on March 17, 2009.

§ 5-6-35 (d); *Hill v. State*, 204 Ga. App. 582 (420 SE2d 393) (1992). We lack jurisdiction to consider an untimely application. *Legare v. State*, 269 Ga. 468, 469 (499 SE2d 640) (1998).

For these reasons, this application is hereby DISMISSED for lack of jurisdiction.



*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.*

*Willie L. Martin*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, MAY 01, 2009

*The Court of Appeals passed the following order*

Case No. A09D0292

DAVID CHARLES SUTTON 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 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*

# Court of Appeals of the State of Georgia

ATLANTA,

*The Court of Appeals hereby passes the following order:* **MAR 27 2009**

**A09D0293. JACKIE J. BRANNON v. ASHLEY BRANNON.**

Jackie J. Brannon seeks review of the denial of his motion for reconsideration of the trial court's entry of a final judgment and decree of divorce. The Supreme Court has general appellate jurisdiction in divorce and alimony cases. Ga. Const. of 1983, Art. VI, § VI, Par. III (6). Brannon's appeal is therefore **TRANSFERRED** to the Supreme Court for disposition.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**MAR 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, June 3, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0294. ARGUELLO v. LANG.**

On April 15, 2009, this Court dismissed Daniel Arguello's application for discretionary appeal as Arguello had failed to establish that his motion for new trial was timely filed. Arguello filed a motion for reconsideration, attaching a copy of his motion for new trial, which shows it was filed within 30 days of the entry of the trial court's order. Accordingly, the motion was timely filed and this Court has jurisdiction to consider the application.

Arguello's motion for reconsideration is therefore GRANTED; this Court's prior order dismissing the application is VACATED; and the application is REINSTATED. Upon full consideration of the merits of the application, however, the application is 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.*



*Will L. Mat...*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 07, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0295  
STACY MITCHELL V. GLENN WALLACE

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

94025

08SC2904



*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 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:** June 03, 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 **S09C1565**

STACY MITCHELL v. GLENN WALLACE

Clerk, Supreme Court of Georgia

Case No. A09D0295

Court of Appeals of Georgia

Notice of Petition for Certiorari

JUN 04 2009

filed in office

JUN 04 2009

Clerk, Court of Appeals of Georgia

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1565

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

STACY MITCHELL v. GLENN WALLACE

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. A09D0295

RECEIVED IN OFFICE  
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Clerk/Court Administrator  
e. J. ...



**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 L. Lewis*, Clerk.



**SUPREME COURT OF GEORGIA**  
Case No. **S09C1565**

Atlanta **September 8, 2009**

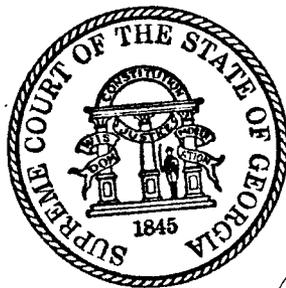
The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**STACY MITCHELL v. GLENN WALLACE**

Because petitioner did not file her petition for certiorari within 20 days after entry of the order denying her application for discretionary appeal, the petition is untimely and hereby is dismissed. Supreme Court Rule 38 (2).

**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, APRIL 09, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0296  
REHAN CORPORATION V. SHALINA CHARANIA ET AL

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

70025

08CV12599



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta*

**APR 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. Martin*

**SUPREME COURT OF GEORGIA**

Remittitur, Case No. S09C1473

Atlanta, September 8, 2009

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

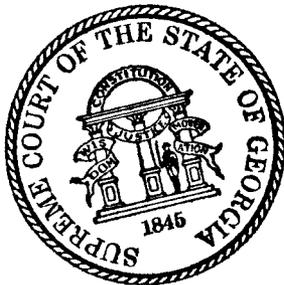
REHAN CORPORATION v. SHALINA CHARANIA et al.

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. A09D0296

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2009 SEP 25 PM 4: 13  
CLERK'S OFFICE  
CLERK 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.

*James L. ...*, Clerk.

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 29, 2009

*The Court of Appeals passed the following order*

Case No. A09D0296

REHAN CORPORATION V. SHALINA CHARANIA ET AL

Upon consideration of the motion for reconsideration filed in this case, it is ordered that it be hereby denied.



*Court of Appeals of the State of Georgia*

*Clerk's Office, Atlanta APR 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*

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 **S09C1473**

REHAN CORPORATION v. SHALINA CHARANIA et al.

Clerk, Supreme Court of Georgia

MAY 20 2009

Case No. A09D0296

Court of Appeals of Georgia

Notice of Petition for Certiorari

filed in office

Clerk, Court of Appeals of Georgia

**Court of Appeals  
of the State of Georgia**

ATLANTA, APRIL 20, 2009

*The Court of Appeals hereby passes the following order:*

APPLICATION NO. A09D0297

NUNEZ PINE STRAW, INC. V. GEORGIA FORESTRY COMMISSION

Upon consideration of the Application for Discretionary Appeal, it is ordered that it be hereby DENIED.

71025

086242



*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 8, 2009

*The Court of Appeals hereby passes the following order:*

**A09D0298. JEFFERY BEECHER GRAM v. SUSAN KATHLEEN GRAM.**

Jeffery Beecher Gram seeks discretionary review of the trial court's order awarding OCGA § 9-15-14 attorney fees to Susan Kathleen Gram in the parties' divorce action. The Georgia Supreme Court has jurisdiction over all divorce and alimony cases. Ga. Const. 1983, Art. VI, § VI, ¶ III (6). Because the order that Jeffery Gram seeks to appeal is ancillary to the divorce action, the Supreme Court has jurisdiction over this application. See *Evers v. Evers*, 277 Ga. 132 (587 SE2d 22) (2003). This application is therefore TRANSFERRED to the Supreme Court.



*Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta*

**APR 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,

*The Court of Appeals hereby passes the following order:* APR 06 2009

**A09D0299. SHELLIE NICHOLS v. DORIS M. ANDERSON ET AL.**

Upon consideration of the respondents' motion to dismiss this application for discretionary appeal, the motion is hereby **DENIED**. Upon consideration of the merits of the application, the application is hereby **DENIED**.



*Court of Appeals of the State of Georgia.*

*Clerk's Office, Atlanta*

APR 06 2009

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*Willie L. Martin*, Clerk.